



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 24 फरवरी, 2020 / 5 फाल्गुन, 1941

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, 2nd January, 2020

No. Shram(A) 6-7/2019 (Awards) L.C. Shimla.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No	Ref. No.	Petitioner	Respondent	Date of Award/Order
1.	76/2014	The General Secretary, Tangnu Ramai Jal Vidyut Worker Union.	M/s Sai Urja Hydal Projects Pvt. Ltd., Tangnu Ramai Hydro Electric Project, Dhamwadi, Distt. Shimla.	17-09-19
2.	77/2014	The General Secretary, Tangnu Ramai Jal Vidyut Worker Union	M/s Sai Urja Hydal Projects Pvt. Ltd., Tangnu Ramai Hydro Electric Project, Dhamwadi, Distt. Shimla.-cum-HOP, HPPCL Reckong Peo & Ors.	17-09-19
3.	92/2019	Dinesh Kumar	The Manager, H.P. State co-operative Bank Ltd. Shillai.	03-09-19
4.	85/2019	Lekh Raj	Meenu Garments, Lower Bazaar, Shimla.	17-09-19
5.	04/2019	Harish Kumar	Pal Trading and Services Parwanoo.	23-09-19
6.	03/2019	Surinder Kumar	-do-	23-09-19
7.	78/2019	Deepak Thapa	Patel Engineering Ltd. Shongtong, Karchham Hydro Electric Project, Reckong Peo.	06-09-19
8.	80/2019	Mingmar Lama	-do-	06-09-19
9.	62/2019	Rajesh Kumar	-do-	12-09-19
10.	77/2016	Shupa Ram	M/s Akron India Pvt. Limited Paonta Sahib, Sirmaur.	30-09-19
11.	75/2015	Pradeep Chauhan	Ranboxy Laboratories Ltd.	25-09-19
12.	62/2016	Employees and Workers Union.	The Principal M.N. DAV Dental College and Hospital Tatul, Distt. Solan.	23-09-19
13.	91/2016	Sheela Devi	The Director, Panchayati Raj Deptt.	30-09-19
14.	31/2018	Prakash Paliwal	M/s Dainik Bhaskar, Malbrow House Chotta Shimla, Shimla.	23-09-19

By order,

NISHA SINGH, IAS,
Addl.Chief Secretary (Lab. & Emp.).

Workers Union

V/s

M/s Sai Urja Project (P.) Ltd. & Anr.

17.09.2019

Present: None for petitioner.
Sh. R.K. Khidta, Ld. Csl. for respondent No. 1.
Sh. Dheeraj Bansal, Ld. vice Csl. for respondent No. 2.

On 22.08.2019, as a matter of indulgence, last opportunity was granted to the petitioner to lead his entire evidence. Today neither any evidence is present nor the Ld. Csl. for the petitioner is present. On 20.07.2019, when the Ld. Csl. for the petitioner had appeared, he had expressed his inability in getting through to the petitioner and sought one last opportunity to lead the entire evidence. However, even on 22.08.2019 neither the Ld. Csl nor any evidence was present. In the aforesaid circumstances, as a matter of indulgence last opportunity was again afforded to the petitioner to lead their entire evidence, but to no avail. It seems that the workers union is not interested to prosecute the lis any further and the Industrial Dispute has lost its relevance or it does not subsist. The reference is thus order to be dismissed as not pressed. Let, a copy of this order be sent to appropriate government for publication in the official gazette. Be consigned to records after completion.

Announced
17.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Ref. 77/2014

Workers Union

V/s

M/s Sai Urja Project (P) Ltd. & Anr.

17.09.2019

Present: None for petitioner.
Sh. R.K. Khidta, Ld. Csl. for respondent No. 1.
Sh. Dheeraj Bansal, Ld. vice Csl. for respondent No. 2.

On 22.08.2019, as a matter of indulgence, last opportunity was granted to the petitioner to lead his entire evidence. Today neither any evidence is present nor the Ld. Csl. for the petitioner is present. On 20.07.2019, when the Ld. Csl. for the petitioner had appeared, he had expressed his inability in getting through to the petitioner and sought one last opportunity to lead the entire evidence. However, even on 22.08.2019 neither the Ld. Csl. nor any evidence was present. In the

aforesaid circumstances, as a matter of indulgence last opportunity was again afforded to the petitioner to lead their entire evidence, but to no avail. It seems that the workers union is not interested to prosecute the lis any further and the Industrial Dispute has lost its relevance or it does not subsist. The reference is thus order to be dismissed as not pressed. Let, a copy of this order be sent to appropriate government for publication in the official gazette. Be consigned to records after completion.

Announced
17.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Ref. 92/2019

Dinesh Kumar

V/s

H.P. State Coop. Bank Ltd., Shillai.

03.09.2019

Present: None for petitioner.
 Ms. Lalita Verma, Ld. Csl. for respondent.

The petitioner has been duly served for today. The tracking report issued by the postal department clearly shows that the notices have been duly served. None has put in appearance on behalf of the petitioner, through, the matter has been called thrice. It seems that the petitioner is not interested to prosecute the lis any further. Apparently, the Industrial Disputes does not subsist any further. Consequently, the reference is disposed off as not pressed at this stage. The reference is thus disposed off in the aforesaid terms. Let, a copy of this order be sent to appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced
03.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Lekh Raj

V/s

Meenu Garments, Lower Bazar, Shimla

17.09.2019.

Present: Petitioner in person.

Sh. Bhupender Jeet Kashyap, Ld. Csl. for respondent.

The petitioner who has appeared in person, submits that he does not intend to proceed with the reference any further. In this behalf a separate statement of petitioner has been recorded and placed on the file. Keeping in view, the statement so made, that he does not intend to proceed with the case any further and the unconditional withdrawal of the lis by the petitioner, it is apparent that the Industrial dispute raised by the petitioner has lost its relevance. It no more subsists. The reference is thus dismissed as having not been pressed. Ordered accordingly. Let, a copy of this order be sent to appropriate government for publication in the official gazette. Be consigned to records after completion.

Announced

17.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Ref. 04 of 2019

Harish Kumar

V/s

M/s Pal Trading and Services, Parwanoo

23.09.2019

Present: None for petitioner.

Sh. Sanjeev Sharma, Ld. Csl. for respondent.

Despite innumerable opportunities no statement of claim has been filed. In fact none has appeared on the last two occasions too. It is thus apparent that the petitioner is not interested to prosecute the lis any further. The Industrial Dispute so raised seems to have ceased to subsist. The reference is thus dismissed, as having not been pressed. Ordered accordingly. Be consigned to record after completion. Let, the copy of this award be sent to appropriate government.

Announced

23.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Surinder Kumar

V/s

M/S Pal Trading and Services, Parwanoo

23.09.2019

Present: None for petitioner.
Sh. Sanjeev Sharma, Ld. Csl. for respondent.

Despite innumerable opportunities no statement of claim has been filed. In fact none has appeared on the last two occasions too. It is thus apparent that the petitioner is not interested to prosecute the lis any further. The Industrial Dispute so raised seems to have ceased to subsist. The reference is thus dismissed, as having not been pressed. Ordered accordingly. Be consigned to record after completion. Let, the copy of this award be sent to appropriate government.

Announced

23.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Deepak Thapa

V/s

M/s Patel Engineering Ltd.

06.09.2019

Present: None for petitioner.
Sh. Naresh Sharma, Ld. Csl. for respondent.

Notices issued to the petitioner have been received back after services. As per the tracking report of the postal department the notices stands delivered. The petitioner thus has been duly served for today. However, none has put in appearance on behalf of the petitioner. It thus seems that the Industrial Dispute under reference is no longer in existence and the petitioner is not interested to prosecute the lis any further. The reference is thus dismissed as not having been pressed, at this stage. Disposed off accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette.

Announced

06.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Mingmar Lama

V/s

M/s Patel Engineering Ltd.

06.09.2019

Present: None for petitioner.
Sh. Naresh Sharma, Ld. Csl. for respondent.

Notices issued to the petitioner have been received back after services. As per the tracking report of the postal department the notices stands delivered. The petitioner thus has been duly served for today. However, none has put in appearance on behalf of the petitioner. It thus seems that the Industrial Dispute under reference is no longer in existence and the petitioner is not interested to prosecute the lis any further. The reference is thus dismissed as not having been pressed, at this stage. Disposed off accordingly. Let a copy of this order be sent to the appropriate government for publication in the official gazette.

Announced
06.09.2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

Rajesh Kumar

V/s

M/s Patel Engineering Ltd.

12.09.2019

Present: None for petitioner.
Sh. Naresh Sharma, Ld. Csl. for respondent.

Notices issued to the petitioner have not been received back after service. As per the tracking report issued by the postal department the notices sent have been redirected for want of complete address. The petitioner thus is not being served despite best efforts. Even otherwise notices issued earlier, have been received back unserved twice. The only address available with this court is as has been reflected in the reference once and apart there is no mechanism with this court to ascertain the complete and correct address of the petitioner. The Ld. Counsel for the respondent also does not have any other detail except those mentioned in the reference.

This court thus cannot proceed any further for want of complete and correct address of the petitioner, nor can it be sought. For all the reason discussed above, this court is thus constrained but to dismiss the reference for want of complete particulars. Ordered accordingly. The reference is

dismissed in the aforesaid terms. Let, a copy of this order be sent to appropriate government for publication in the office gazette. Be consigned to records after completion.

Announced
12.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Labour Court, Shimla.

**IN THE COURT OF CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. 77 of 2016

Instituted on 3-9-2016

Decided on 30-9-2019

Shupa Ram s/o Shri Surat Singh, R/o Village & P.O. Nihalgarh, Tehsil Paonta Sahib, Distt. Sirmour (H.P.).
..Petitioner.

VERSUS

1. The Factory Manager, M/s Akron India (P) Ltd., Village Nihalagarh, Rajban Road, Paonta Sahib, Distt. Sirmaur (H.P.).

2. Prop. M/s Checkmet Security Services (P) Ltd., Village Kishanpura, Baddi, Distt. Solan (H.P.).
..Respondents.

Reference under section 10 of the Industrial Disputes Act

For petitioner : Ms. Priyanka Semwal, Advocate
For respondent No.1 : Shri Rahul Mahajan, Advocate
For respondent No. 2 : Shri B.B. Vaid, Advocate

AWARD

The following reference was received for adjudication from the appropriate government:—

“Whether termination of the services of Shri Shupa Ram s/o Shri Surat Singh, V.P.O. Nihalgarh, Tehsil Paonta Sahib, Distt. Sirmaur, H.P. who was engaged as Security Guard by the Employer, M/s Akron India Pvt. Ltd., Village Nihalgarh, Rajban Road, Paonta Sahib, Distt. Sirmaur, H.P. (Principal Employer) through Prop. M/s Checkmet Security Services (P) Ltd., Village Kishanpura, Baddi, Distt. Solan, H.P. (Contractor), w.e.f. 02.4.2015 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what relief of reinstatement, back wages,

compensation, seniority and other service benefits the above aggrieved workman is entitled to from the above management?"

2. In the claim it is averred by the petitioner that he was appointed as a security guard on daily wages basis on 3.2.2011 in Klitch Drugs Pvt. Ltd. and remained posted as such till 29.2.2012.

3. On 29.2.2012, the above named company was taken over by the present respondent No. 1 i.e. M/s Akron India Pvt. Ltd. alongwith all assets and liabilities.

4. It is further the averred case of the petitioner that the respondent had outsourced the job of security to an agency known as Check-Mate Security Service i.e. respondent No. 2 where the petitioner has been performing his duties as a security guard regularly till 2.4.2015. His services were however, orally terminated by the respondent No.1.

5. The petitioner had also approached the SDM Paonta Sahib against his illegal termination and he had also made a complaint to the Labour Officer on 7.4.2015. Eventually, a demand notice was sent to the respondent No.1 by the Labour Officer on 16.4.2015 and the respondent No.1 had filed the reply before the Labour Officer.

6. It is further averred by the petitioner that he is the employee of respondent No.1, who has outsourced the job of security to the respondent No. 2. However, the fact remains that the petitioner is an employee of respondent No.1 company, for all intents and purposes. The petitioner has been working with M/s Klitch Drugs Pvt. Ltd., since the year 2011 and even thereafter, when the company was taken over by the respondent No.1. The respondent No.1 company has dispensed with the services of the petitioner without any rhyme or valid reasons and prior intimation. The petitioner believes that his services have been terminated owing to the sole reason that he had been raising the problems of other fellow workers with regard to the overtime and grant of leave etc. The termination of the petitioner is further stated to be arbitrary and against the provisions of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act). The petitioner thus claims reinstatement in service.

7. The respondents have filed their separate replies.

8. While contesting the claim the respondent No.1 have *inter-alia* raised preliminary objections *vis-à-vis* maintainability. Per the respondent No.1, the Joint Labour Commissioner was not competent to make the present reference, there exists no relationship of an employer and an employee between respondent No.1 and the petitioner as he was stated to be the employee of respondent No. 2. The petitioner had been appointed as a security guard through the respondent No. 2 under the Contract Labour (Regulation and Abolition) Act. The petitioner was thus an employee of respondent No.2. The wages, contribution under the ESI and EPF, attendance etc. were all being done by the respondent No.2.

9. On merits, it is the case of the respondent No.1 that they had entered in to an agreement with M/s Klitch Drugs Pvt. Ltd. *vide* agreement dated 15.7.2013. The petitioner had been working as a security guard with M/s Klitch Drugs Pvt. Ltd. and had taken full and final settlement from them on 19.7.2013. The agreement and the full & final settlement entered interse them have been annexed alongwith.

10. It is further averred by the respondent No.1 that the petitioner has himself admitted that the security services have been outsourced by the respondent No.1, there is no relationship of an employer and an employee between the replying respondent and the petitioner. The respondent No.2 had transferred the petitioner to Baddi but the petitioner had failed to join at the transferred

place. The replying respondent had a valid registration under the Contract Labour (Regulation and Abolition) Act and the petitioner was the employee of respondent No. 2, who had deployed the petitioner as a security guard in the factory premises of the respondent No.1. The wages of Shupa Ram, coverage and contribution under the ESI and EPF, marking of attendance, maintaining of registers under the Labour Laws, control and supervision of the petitioner, all was done by respondent No.2. It is therefore prayed by the respondent No.1 that the claim be dismissed being devoid of any merits.

11. The respondent No. 2 while filing separate reply has raised a preliminary objection that it was a private limited company and has not been sued in accordance with law.

12. On merits, it is the case of the respondent No.2 that the petitioner was enrolled as a security guard with them on 15.7.2013. As per the terms and conditions of the employment, the petitioner could be asked to work at any place or unit by the replying respondent. The petitioner had been arrested in a criminal case in Paonta Sahib for allegedly carrying illicit liquor. The respondent No. 1 was also not satisfied with the work of the petitioner and had asked the respondent No. 2 to change the security guard. The petitioner had been issued a movement order on 6.4.2015, to report at Baddi in some other unit. However, the petitioner did not report for duty and insisted that he wanted to work with the respondent No.1 only. As per respondent No. 2 the application of employment signed by the petitioner envisaged that he could be posted anywhere in India. The copy of the said application has been annexed alongwith the reply. Per the respondent No. 2 the petitioner did not comply with the orders dated 6.4.2015 and stopped reporting for duty on his own. The petitioner has thus left the job of his own volition. It was thus prayed that the claim be dismissed.

13. While filing rejoinder, the petitioner controverted the averments in the replies filed by respondents and further reiterated those in the statement of claim.

14. I notice that on 1.1.2018, the following issues came to be framed by my Learned Predecessor:

- (1) Whether the termination of the services of the petitioner by the respondent *w.e.f.* 2.4.2015 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? *..OPP.*
- (2) If Issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? *..OPR.*
- (3) Whether the petition is neither competent nor maintainable, as alleged? *..OPR.*
- (4) Relief:

15. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No.1 : Yes

Issue No. 2 : Per operative part

Issue No. 3 : No

Relief : Reference is answered partly in favour of the petitioner and against respondent No.2 per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 & 2:

16. Both these issues being correlated and intermingled are being taken up together for decision.

17. Though, a half hearted attempt has been made by the petitioner to contend that he has been working with the respondent No.1 *i.e.* the Principal employer directly, as he had started initially working with Klitch Drugs on 3.2.2011. Since the said company was taken over by the respondent No.1 alongwith its workers *i.e.* all assets and liabilities, he is the employee of respondent No.1, however, the petitioner himself has stated that M/s Akron India Pvt. Ltd., had outsourced the job of security to Check Mate Security Services *i.e.* the respondent No. 2, where the petitioner has been performing his duties as a security guard regularly till 2.4.2015. There after his services were orally terminated.

18. In fact, even the reference is whether the termination of the petitioner is in derogation to the provisions of the Act, the petitioner having been engaged as a security guard by the employer M/s Akron India Pvt. Ltd. through Prop. M/s Check Mate Security Service Pvt. Ltd.

19. It is thus abundantly clear that the issue has merely boiled down to the fact whether the respondent No. 2 had followed the basic and cardinal principles envisaged under the Act while terminating the petitioner or not. The question of the petitioner being an employee of respondent No.1 has neither been referred nor is apparently in issue before this Court.

20. Even otherwise it has been specifically pleaded by the respondent No.1 that the petitioner had been engaged through the respondent No. 2 on 15.7.2013 and the petitioner has even taken his full & final settlement from the erstwhile proprietor *i.e.* Klitch Drugs Pvt. Ltd. on 19.7.2013. In fact the petitioner also admits in his cross-examination that his entire dues were paid by Klitch India Ltd. in July 2013 and a settlement dated 17.7.2013 was also signed by him. Though, he denies having filled up employment form of the respondent No.2 (Mark RX), but, admits his photograph and signatures thereupon.

21. Further, the averments made by the respondent No. 2 are fully corroborated by RW-1 one Shri Ganga Ram Thakur, Senior Assistant, EPFO, Kasumptati. The entire contribution of the petitioner is shown to have been made by respondent No.2 alone from July 2013 till March 2015, as is clear from Ex. R-1/A on record. The details of the form and the EPF account has also been placed on record as Ex. RW-1/B and Ex. RW-1/C. The said factum is further corroborated by the testimony of RW-2 Shri Amarnath Dubey, who has likewise placed on record the ESI contribution deposited in favour of the petitioner by the respondent No. 2 *vide* Ex. RW-2/A and Ex. RW-2/B. RW-4 Shri Rajkumar and RW-7 Shri Gurmeet Singh have further cemented the said factum in this behalf.

22. The only question which thus remains germane to the dispute is whether the termination of the petitioner *w.e.f.* 2.4.2015 is violative of the provisions of the Act, as alleged.

23. The respondent No.2 while contesting the claim of the petitioner has averred that the petitioner had been arrested in a criminal case at Paonta Sahib for allegedly carrying illicit liquor and since the respondent No.1 was not satisfied with the work of the petitioner he had been issued a

movement order on 6.4.2015 to report at Baddi, but the petitioner never complied. He himself stopped attending his work and left the job of his own volition.

24. It is thus the case of the respondent No. 2 that the petitioner had abandoned the job and he was never terminated by the respondent No. 2. RW-7 Shri Gurmeet Singh has also in his deposition reiterated the same facts. Per him he had offered to post the petitioner anywhere at Paonta Sahib, but the petitioner refused to join at any other place except the factory of the respondent No. 1. Per this witness they were even willing to offer alternative employment to the petitioner at Paonta Sahib itself. Even, per this witness the petitioner has stopped coming after 31.3.2015.

25. The fact however remains that admittedly no retrenchment compensation had been paid to the petitioner. Though, the respondent No. 2 claims that the petitioner had abandoned the job, there is no evidence on record to remotely suggest that the petitioner had been issued any notice for willful absence or some enquiry worth the name was initiated regarding the so called willful abandonment. It is now fairly well settled that abandonment is a plea of fact and the same has to be substantiated by leading evidence. In this behalf support can ably be drawn from the judgment of our own Hon'ble High Court in case titled as **State of HP Vs. Batag Ram and another [(2007) STPL (HJ) 1390 (HP)]**. Admittedly, the respondent No. 2 had not initiated any action against the petitioner for willful absence or abandonment nor the same has been proved by leading evidence in this behalf. The action of the respondent No. 2, while doing away with the services of the petitioner, has to fall within the fore corners of word "retrenchment". The respondent No. 2, no doubt, was a placement agency, but it had to abide by the basic canons of Labour Laws enunciated in the Act. The respondent No. 2 has failed to *abide* by the provisions of section 25-F as such the termination is bad in the eyes of law. It is held accordingly.

26. As a sequel to the aforesaid findings, the respondent no.2 shall pay the retrenchment compensation to the petitioner as per section 25-F of the Act *i.e.* one month's paid (last drawn) and retrenchment compensation, which shall be equivalent to average pay for every completed year of continuous service *i.e.* for two years, the period for which the petitioner was engaged with them. The petitioner shall also be entitled to a sum of Rs. 50,000/- as compensation and costs of litigation. If, the petitioner so desire, the respondent No.2 shall have him placed as a security guard in an around Paonta Sahib, as a fresh hand. The issues are decided accordingly.

Issue No. 3:

27. Nothing has been urged nor anything has been brought to my notice as to how the petition is neither competent nor maintainable. Therefore, keeping in view the reasons recorded in respect of issues No. 1 & 2, it cannot be said that the claim petition is neither competent nor maintainable. The issue is decided in favour of the petitioner and against the respondents.

RELIEF:

For the foregoing reasons discussed hereinabove *supra*, the reference is partly allowed. The respondent No.2 is directed to pay the retrenchment compensation to the petitioner as per section 25-F of the Act *i.e.* one month's paid (last drawn) and retrenchment compensation, which shall be equivalent to average pay for every completed year of continuous service *i.e.* for two years, the period for which the petitioner was engaged with them. The petitioner shall also be entitled to a payment of amount of Rs. 50,000/- as compensation and costs of litigation. If, the petitioner so desire, the respondent no.2 shall have him placed as a security guard in an around Paonta Sahib, as a fresh hand. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 30th day of September, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. 75 of 2015

Instituted on 3-11-2015

Decided on 25-9-2019

Pardeep Chauhan S/o Shri Khajan Singh, Village Salwala P.O. Gorkhuwala, Tehsil Paonta Sahib, Distt. Sirmaur (H.P.) ..Petitioner.

M/s Ranbaxy Laboratory Ltd., Now M/s Sun Pharma Ltd., Vill. Ganguwal, Tehsil Paonta Sahib, Distt. Sirmaur (H.P.) Through its Factory Manager. ..Respondent.

Reference under section 10 of the Industrial Disputes Act

For petitioner : Shri J.C. Bhardwaj, AR.
For respondent : Shri Rahul Mahajan, Advocate.

AWARD

The following reference was received for adjudication from the appropriate government:—

“Whether termination of the services of Shri Pradeep Chauhan s/o Shri Khajan Singh Chauhan, Village-Salwala, P.O. Gorkhuwala, Tehsil Paonta Sahib, Distt. Sirmour, H.P. w.e.f. 04.10.2014 by the Employer/Management of M/s Ranbaxy Laboratory Ltd. Village Ganguwal, Paonta Sahib, Distt. Sirmaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 as alleged by workman, is legal and justified? If not, to what relief of reinstatement & compensation the above aggrieved workman is entitled to from the above management?”

2. In accordant to the aforesaid reference, it is the averred case of the petitioner that he joined the respondent company as a manufacturing assistant on 19.12.2007. On completion of probation he came to be confirmed on 1.7.2008. Keeping in view his good performance he was promoted to the next higher grade A-II, and he received team excellence award and certificate of appreciation. Thereafter, he kept on moving from one grade to the other, the highest being grade A-III on 4.4.2014. However, on 4.11.2014, all of a sudden his services were illegally terminated after a purported domestic enquiry, which was also totally illegal and malafide.

3. It is further the case of the petitioner that not only was he not allowed to participate in the enquiry, but even no defence assistance was provided to him. While chargesheet dated 1.9.2014

was served on him but no documents were ever supplied alongwith the chargesheet and nor were the same given to the petitioner during the course of the enquiry. None the less the petitioner had submitted the reply to the chargesheet on 11.8.2014.

4. It is also the case of the petitioner that he was made a victim of the unwarranted punishment of dismissal, as a part of a conspiracy hatched by the respondent management to oust him from service due to his legitimate trade union activities, the workers having elected him as the President of the union. After becoming President of the union he had served a demand notice on 24.4.2014. Immediately thereupon the respondent management had threatened him with dire consequences which fact had also been reported by the petitioner to the Labour Officer, Nahan. It is because of these activities that the domestic enquiry was initiated against the petitioner on, frivolous and concocted grounds.

5. As per the petitioner even during the course of the enquiry he had raised certain demands of the workmen before the Director of the company. The said demands were asked to be raised before the enquiry officer. The petitioner had also resorted to a hunger strike against the unfair labour practices of the management on 23.8.2014. The petitioner had participated in the enquiry proceedings on 27.8.2014. The conduct of the enquiry officer was totally arbitrary and biased. The petitioner had made a representation in this behalf on 5.9.2014 and also requested for the change of the enquiry officer. However, no change was effected by the respondent. The petitioner had also approached the Labour-cum-Conciliation Officer, Nahan on 22.9.2014 seeking the change of the enquiry officer. In this behalf, the petitioner had again made a representation to the location head of the company on 30.9.2014, but to no avail. He had again approached the Labour Officer, Nahan on 13.10.2014. Since, the enquiry officer was not changed, he was proceeded *ex-parte*, the said proceedings are thus stated to be nonest in the eyes of law.

6. No opportunity was afforded to the petitioner to defend himself and eventually a show cause notice was issued to him on 21.10.2014 and that too without any enquiry report. The enquiry officer had not allowed any defence assistant to the petitioner nor any documents were supplied to him which was later on got exhibited in the enquiry. No opportunity was afforded to the petitioner to cross-examine the witnesses of the management. It is thus apparent that the conduct of the enquiry officer was not honest and bonafide. The enquiry report is based on biased, partial and the testimony of interested witnesses.

7. It is also the case of the petitioner that though the respondent company obtained the services of a legal practitioner in the enquiry but the petitioner was not even allowed a fair chance to defend himself. Equal opportunity was denied to the petitioner. The principles of natural justice were not followed during the course of enquiry.

8. It is also the case of the petitioner that the punishment imposed was too harsh and the extreme penalty of dismissal was not appropriate, keeping in view the past service and record of the petitioner.

9. It is thus prayed by the petitioner that the domestic enquiry so conducted be declared null and void and the same be set aside and quashed. The petitioner also seeks reinstatement *w.e.f.* 4.11.2014 alongwith all consequential benefits including back-wages.

10. The respondent while controverting the pleas so raised in the statement of claim have *inter-alia* raised preliminary objections of the claim being not maintainable as the petitioner had concealed true and material facts from this tribunal. The reference is also stated to be no maintainable as the petitioner already stands dismissed *w.e.f.* 4.11.2014 and that too after conducting a just, fair and a proper domestic enquiry, following the procedure prescribed under the

Certified Standing Orders of the respondent company. The punishment of dismissal is stated to be commensurate with the misconduct levied *vide* chargesheets dated 7.8.2014 and 1.9.2014 which stands duly proved during the course of the enquiry.

11. On merits too it is the averred case of the respondent that the petitioner was dismissed on 4.1.2014 in respect of charges levied *vide* chargesheets dated 7.8.2014 and 1.9.2014 which stood duly proved in the domestic enquiry. The enquiry officer conducted the enquiry as per the procedure prescribed in the Certified Standing Orders of the respondent company and after duly following the principles of natural justice. A fair hearing was afforded to the petitioner and he was provided sufficient opportunity to put-forth his case, but, the petitioner failed to participate in the enquiry, thus, leaving no option with the enquiry officer but to proceed against him *ex parte*, as per the stipulations of the Certified Standing Orders. The petitioner in spite of being aware of the enquiry proceedings intentionally and deliberately did not appear in the enquiry and as such he is now estopped from raising false and frivolous violations of the principles of natural justice and fair hearing.

12. The petitioner had also been asked to bring any co-worker as a defence assistant but the petitioner refused and opted to put-forth his case on his own.

13. It is also averred by the respondent that the chargesheet need not contain details of the documents or the name of the witnesses proposed to be examined to prove the charges or a list to that effect unless there is a specific provision to that effect. Chargesheet in other word is not accepted to be a record of evidence. Fair procedure does not mean giving of copy or list of witnesses alongwith chargesheet. Per the respondent, even their Certified Standing Orders, Rules and Regulations do not provide that chargesheet should also be accompanied by the documents or list of witnesses. The rest of the contents of the statement of claim are denied by the respondent.

14. It is however further averred that the charges have been proved against the petitioner in the domestic enquiry. The petitioner had participated in the enquiry proceedings from 5.9.2014 till 6.10.2014 but on the same day he had left the proceedings and the enquiry officer was left with no other option but to proceed against the petitioner *ex parte*, in terms of the Certified Standing Orders. It is denied that the enquiry officer adopted an arbitrary and a biased attitude towards the petitioner. The petitioner had submitted a letter for change of the enquiry officer but the respondent had rejected the said application. In fact, it is the petitioner who had tried to delay the enquiry on one pretext or the other and even misbehaved with the enquiry officer during the enquiry proceedings. Consequently the proceedings had to be video recorded that too on the request of the petitioner himself. The video recordings have been attached alongwith. It is thus stated that there is no violation of the principles of natural justice as the petitioner has himself left the enquiry even on 6.10.2014. He had been explained the procedure of the enquiry and even told that he can bring any co-worker as his defence assistant. The petitioner however submitted that he will not participate in the enquiry. He had signed the first three pages of the enquiry proceedings and took the copy of the same and left the venue. After that the petitioner never participated in the enquiry.

15. Per the respondent the enquiry report is just and reasoned and had been arrived at after taking into consideration the oral and documentary evidence. Second show cause notice was issued to the petitioner alongwith the copy of the enquiry report, however, the petitioner failed to file reply and eventually his services were dismissed *vide* letter dated 4.11.2014. The punishment of dismissal is stated to be commensurate to the misconduct alleged against the petitioner. The petitioner is further stated to be gainfully employed and he is stated to be earning Rs. 10,000/- to Rs. 15,000/- per month. The respondent thus prays that the claim be dismissed being devoid of any merits.

16. While filing rejoinder, the petitioner controverted the averments in the reply filed by respondent and further reiterated those in the statement of claim.

17. I notice that on 29.11.2016, the following issues came to be framed by my Learned Predecessor:

1. Whether the termination of the services of the petitioner by the respondent *w.e.f.* 4.10.2014 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? ..*OPP.*
2. If Issue No.1 is proved in affirmative, to what relief the applicant is entitled to? ..*OPP.*
3. Whether the petition is neither competent nor maintainable as alleged? ..*OPR.*
4. Relief

18. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 : Partly yes

Issue No. 2 : Per operative part

Issue No. 3 : No.

Relief : Reference is answered partly in favour of the petitioner and against the respondent per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 & 2:

19. Both these issues being correlated and intermingled are being taken up together for decision.

20. The termination of the petitioner has been ordered in pursuance to a departmental enquiry Ex. RW-2/B on 8.10.2014, eventually culminating in the dismissal of the petitioner on 4.11.2014 *vide* Ex. RW-1/E. It is the case of the respondent that the services of the petitioner were dismissed on 4.11.2014 in respect of the charges levied *vide* chargesheet dated 7.8.2014 and 1.9.2014 which stands duly proved in the domestic enquiry and the enquiry was conducted as per the Certified Standing Orders, after duly complying with the basic principles of natural justice and fair play.

21. The petitioner on the other hand has impugned the enquiry proceedings, being *inter-alia* violative of many ills, like no opportunity having been offered to the petitioner to defend his cause, having come to be proceeded *ex-parte*, the petitioner having sought change of the enquiry officer who was purportedly biased against the petitioner but to no avail, certified standing orders having not been supplied to the petitioner even despite a written demand, the certificate having not been duly proved, the management representative having appeared as a witness of the management and the documents having not been supplied alongwith the chargesheet. It is also the case of the

petitioner that he being the president of the worker union had raised a demand *vide* Ex. PW-1/J and as such a false case had been foisted upon him.

22. Though, the respondent has placed on record enough documentary evidence to show that an enquiry had been conducted against the petitioner by an independent person who happens to be RW-2, one Shri A.K. Bakshi and the allegations against the petitioner have been duly proved. The enquiry officer has placed on record the enquiry reports Ex. RW-2/B and Ex. RW-2/C. So much so even the proceedings have been placed on record from Ex. RW- 2/D to Ex. RW-2/H.

23. The enquiry officer himself happens to be a practicing lawyer. As per him a certificate had been placed on record during the enquiry proceedings as Ex. M/4. It is the 10+2 mark sheet which is alleged by the management to be false and fabricated, on the basis of which the petitioner had sought employment with the respondent. The enquiry officer has admitted that there is no written complaint regarding the threats to the General Manager, though he had appeared as a witness himself before him in the enquiry. It is denied that the service of defence assistant was not provided to the petitioner. As per this witness the petitioner had himself submitted that he will get a defence assistant as and when required and till that time he would defend his case himself. The witness also admits that nothing was brought to his notice that a candidate should have passed 12th with science as a necessary qualification for appointment as a worker with the respondent company. The petitioner had been conveyed the process to be followed during the course of enquiry and he was given due opportunity of defending himself. However, after 6.10.2014, the petitioner never appeared and hence was proceeded *ex-parte*.

24. Oblivious of the objections so raised by the petitioner challenging the enquiry proceedings, a very strange and a startling plea comes to the fore and which also has been pleaded by the respondent, that the chargesheet need not contain details of the documents or the names of the witnesses proposed to be examined to prove the charges or a list to that effect unless there is a specific provision thereto.

25. It is further averred by the respondent that a chargesheet in other word is not accepted to be a record of evidence. Fair procedure does not mean giving of a copy or list of witnesses alongwith the chargesheet. Further per the respondent, the Certified Standing Orders, Rules and Regulations do not provide that chargesheet should also be accompanied with documents or even the list of witnesses has to be supplied along-with the chargesheet.

26. It is the pleaded case of the respondent management.

27. Though, no evidence has been led to show that there was any specific provision in their rules or standing orders that documents and list of witnesses are not required to be provided along-with the chargesheet, but the premise on which the respondent company has proceeded apparently is un-known to law. It is rather the other way around. It is a cardinal and a well settled proposition that anything to be used against a delinquent has to be furnished to him alongwith the chargesheet enabling him to defend himself.

28. The learned counsel for the respondent while trying to support the contentions raised by the respondent has placed reliance upon the judgments of the Hon'ble Supreme Court titled as **State of T.N. Vs. Thiru K.V. Perumal and Ors. (1996) 5 Supreme Court Cases 474, State of UP and Ors Vs. Ramesh Chandra Mangalik (2002) 3 Supreme Court Cases 443 and State Bank of India & Ors. Vs. Narendra Kumar Pandey (2013) 2 Supreme Court Cases 740.**

29. The conjoint reading of the aforesaid judgments rather show that the duty of the authorities is only to supply relevant documents and not each and every document asked for by the

delinquent. One of the judgments further goes to on hold that non-supply of the same may not be fatal, if prejudice is not shown to have been caused. In *State Bank of India and Ors. Vs. Narendra Kumar Pandey*, the mandate is that the chargesheet need not contain the entire details of documents or name of witnesses proposed to be examined. Though, the same is also based on the peculiar facts of the case, more so keeping in view the statutory provisions proved and placed on record by the State Bank of India in the said case. The non-compliance in the aforesaid case were held to be fatal keeping in view the provisions of Rule 68 of the Service Rules placed on record by the State Bank of India in that particular case.

30. On the contrary in the case in hand, the oral and documentary evidence on record goes to show that admittedly no documents were supplied to the petitioner either with the chargesheet or even till 21.10.2014, *i.e.* till the time the petitioner was appearing in the proceedings. In fact it is the pleaded case of the respondent that there was no requirement to give the details of the documents or the name of the witnesses along-with the chargesheet.

31. By now it is fairly well settled that any material to be relied upon during disciplinary proceedings had to be supplied in advance to the chargesheeted employee and the failure thereof is fatal. A reasonable opportunity to defend an employee in the proceedings and the principles of natural justice also demands that none is condemned un-heard. This proposition is trite and can well be inferred from the ratio consistently laid down by the Hon'ble Supreme Court in **Pepsu Road Transport Corporation Vs. Lachhman Dass Gupta and Another reported in 2002-1-LLJ286** and reiterated in **Government of Andhra Pradesh and Ors Vs. A.Venkata Raidu 2007-1-LLJ 178** and **Union of India and others Vs. S.K. Kapoor 2011-II- LLJ-627 (SC)**.

32. The primary charge related to the petitioner submitting a fake certificate of 10+2, while seeking employment with the respondent and some misbehavior with the General Manager, HR. The least which was expected from the respondent management was that at least the purported fake mark sheet had to be supplied to the petitioner alongwith the chargesheet to prepare his defence or to apprise him who were to be examined to prove his misconduct with the General Manager. The non supply of the alleged fake certificate in fact has caused de-facto prejudice to the petitioner. It is thus manifestly clear that non supply of the material to be relied upon, more particularly the alleged fake certificate which was the sheet anchor for the respondent management, has seriously breached the principles of natural justice. The conclusion thus is clear and unambiguous, that the delinquent had been denied reasonable opportunity to defend himself in the proceedings.

33. The non-supply of the documents gains added significance as the petitioner apparently had become the president of the workers union and started raising demands on their behalf as is clear from Ex. PW-1/J. Though, he cannot be said to be a "protected workman", nor was there technically any "conciliation proceedings" pending, but, indeed he had started raising the cause of the workers and it may have goaded the respondent to take some action against the petitioner. The enquiry is thus held to be bad in the eyes of law. The enquiry is not fair and proper and as such is set aside and quashed. The other objection raised thus need not be taken into consideration keeping in view the discussion held hereinabove.

34. However, adverting to the question as to what relief the petitioner is entitled to. Suffice it to say that keeping in view the nature of allegation against the petitioner, this Court does not think it fit to order the payment of wages to the petitioner. The petitioner is however ordered to be reinstated in service. He shall only be entitled to seniority and continuity, however, without any back-wages. The issues are decided accordingly.

Issue No.3:

35. Nothing has been urged nor anything has been brought to my notice as to how the petition is not maintainable. Even otherwise the enquiry proceedings having been held not to be in consonance with the settled principles of law as has been discussed in detail in the foregoing issues, the claim filed by the petitioner is maintainable. The issue thus is decided against the respondent.

RELIEF:

For the foregoing reasons discussed hereinabove *supra*, the reference is partly allowed. The petitioner is ordered to be re-instated in service forth-with. He shall be entitled to seniority and continuity. However, the petitioner shall not be entitled to any back-wages. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 25th Day of September, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. 62 of 2016

Instituted on 20-7-2016

Decided on 23-9-2019

D.A.V. Dental College Employees and Workers Union (AITUC) (Regd.), Tatul, P.O. Oachghat, Tehsil and Distt. Solan (H.P.) Through its General Secretary. *..Petitioner.*

M.N. D.A.V. Dental College and Hospital, Tatul, P.O. Oachghat, Tehsil and Distt. Solan (H.P.), Through its Principal. *..Respondent.*

Reference under section 10 of the Industrial Disputes Act

For petitioner : Shri J.C. Bhardwaj, AR.
For respondent : Shri Arun Kumar Verma, Advocate.

AWARD

The following reference was received for adjudication from the appropriate government:—

“Whether demand of the General Secretary, D.A.V. Dental College Employees and Workers Union (AITUC), Tatul, P.O. Oachghat, Tehsil & Distt. Solan, H.P. vide

demand notice dated 26.03.2014 (copy enclosed) raised before and to be fulfilled by the Principal, M.N. D.A.V. Dental College and Hospital, Tatul, P.O. Oachghat, Tehsil & Distt. Solan, H.P. to change the service-conditions of S/Sh. Pumesh Mehta, Om Parkash, Dinesh Kumar, Ganesh Kumar, Jagmohan, Sunita Devi, Asha Devi, Himmat Kaur from alleged roll the contractor to regular roll of the College as confirmed employee of the college on completion of 5 years of services, as per clause-7 of settlement dated 9.2.2012 arrived at in between above college management and workers union u/s 18(1) of the Industrial Disputes Act, 1947 is legal and justified? If yes, what relief including placement on regular rolls of college, monetary benefits, back wages and compensation etc. the aggrieved workers are entitled to from the above employer?"

2. It is the averred case of the union that it is the only registered and a recognized trade union in the respondent establishment and one Pawan Kumar Khatri is its elected general secretary. He is competent to sue the respondent establishment before this Court.

3. It is the case of the union that the aforesaid workmen had approached the union for the implementation of the provisions of the settlement arrived at between the management and the workmen union on 9.2.2012. Since, the management refused to implement the provisions pertaining to the regularization of these workmen as per Clause-VII of the settlement, special meeting of the general house was called which has unanimously resolved to espouse the cause of these workmen. Consequently, a demand notice was raised under section 2- k of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act). Conciliation proceedings, however, failed and hence the present reference.

4. It is further averred by the union that eight workmen namely Umesh Mehta was appointed at the first instance on 7.9.2004 as a Lab. Attendant, Om Prakash was appointed as Mali on 2.11.2008, Dinesh Kumar was appointed as a conductor on 1.9.2006, Ganesh Kumar was also appointed as a conductor on 15.10.2004, Jagmohan was appointed as a bus driver on 11.4.2013, Sumila Devi was appointed as Safaikaramchari on 19.7.2004, Asha Devi was appointed as Safaikaramchari on 9.12.2005 and Smt. Himat Kaur was also appointed as Safaikaramchari on 22.7.2006.

5. As per the petitioner they were all engaged directly by the principal of the respondent college. However, later to evade the liabilities arising under law, the management of the college started showing the aforesaid workmen as having been employed through the contractor. The entries are alleged to be a sham, in-genuine and created just to deprive these workmen from the legitimate benefits. Their counter parts directly employed by the management are availing benefits different then the petitioners. The contractors came and went but the workmen remained continuously in service of the college. They were carrying out the work which was perennial in nature and out-side the scope for which the contract could be made. The principal had never applied nor registered with the licensing authority for any work to be done through a contractor and so had the contractors never applied for the same. They were merely name lender contractors. Moreover, the perennial nature of work cannot be taken through a contractor as it is prohibited under section 10(1) of the Contract Labour Regulation and Abolition Act, 1970 (hereinafter to be referred as the Contract Labour Act). Therefore, these workmen are entitled to the same salary and allowances at par with the directly employed workmen.

6. In this behalf the union had submitted a demand notice to the respondent on 26.3.2014, demanding that their services be regularized as per clause-VII of the settlement arrived between the workers union and the management on 9.2.2012, whereby the management had agreed that he contractual employees who are working on perennial/permanent nature of work would be entitled

to become employees of the college after rendering five years contractual service in good-standing, which is also stated to have been agreed in an earlier settlement dated 5.4.2004.

7. It is also further the averred case of the union that the workmen on the rolls of the college are being paid more than Rs. 15000/- whereas the workmen shown through the name lending contractor are paid a meagre amount of Rs. 5400/- per month which is highly discriminatory and against the mandate of the principle of "equal pay for equal work". It is also violative of the provisions of the Contract Labour Act. All these workmen are working under the direct control of the college and they are being supervised by the supervisor of the college. Their work and conduct has been excellent. The respondent college has been taking work from these workmen since years together. They are now violating the provisions of the settlement which is totally illegal and arbitrary in the eyes of law.

8. The contract in respect of these workmen is a sham, camouflage and not genuine as their services are being utilized on perennial nature of work. The workers are under direct control of the officers of the college. The so called contracts thus are bogus. The petitioners thus pray that the workmen mentioned in the demand notice and the order of reference be declared the regular/permanent workmen of the college. They may also be granted all the benefits at par with the similar situated workmen of the respondent college retrospectively *i.e. w.e.f.* the date of settlement being 9.2.2012.

9. The respondent college while controverting the submissions made in the statement of claim have *inter-alia* raised preliminary objections *vis-A-vis* maintainability, concealment of material facts, non-joinder and mis-joinder of necessary parties and the petition being barred by the own acts and conduct of the petitioner.

10. It is the case of the respondent that the aforesaid employees are not the members of the union and as such they have no *locus standi* to file the present petition. They have also intentionally and willfully not arrayed all the contractors as party respondents and as such the petition is bad in the eyes of law and there is no relationship of an employer and an employee between the parties.

11. On merits, the contention of the respondent is that the petitioner union is the union of the MN DAV Dental College and Hospital employees and workers only. Only the employees and the workers of the college can be the members of the said union and not the workers/employees of the contractors. The petitioners being the employees of the contractors have no *locus standi* to file the present petition and likewise they cannot press for the implementation of the settlement arrived between the management of the college and the workers union on 9.12.2012. As per the respondent, the settlements dated 5.4.2004 and 9.2.2012 is pertaining to revision of pay scales and allowances as per the government notification dated 26.8.2011, but only *qua* the workers/employees of the respondent college and not of the contractors. The aforesaid workers were engaged by the various contractors and their services were provided to the replying respondent under an agreement of manpower supply as per the terms and conditions applicable to them. It is denied that the aforesaid workers were at any point of time engaged directly by the respondent college. Except Pumesh Mehta and Jagmohan all the other workers are said to be engaged under the direct employment of Rab Rakha Security Services since 1.4.2012 till date. Their salaries, EPF and other dues are being paid to them by the contractor. Jagmohan has left work in September, 2013. The workers were engaged by various contractors from time to time and their services were provided to the respondent college by the contractor. Initially in November 2006, the workers were provided by on M/s Tiger Security Service Agency, as per agreement annexure R-1. Thereupon, one M/s Vikram Security Agency provided manpower as per agreement Annexure R-2 from September 2007 to August 2008. The names of the workers are mentioned at serial number 2 of the

list of employees whose services were provided to the respondent college under the manpower agreement. Thereafter one M/s Jai Durga Security Agency provided the manpower.

12. The payments were made to the contractor and it was the contractor who use to disburse the salary to its employees. M/s Jai Durga Security Service provided manpower till March 2019. Thereafter, one M/s Himachal Security Service had provided manpower. The respondent college thereafter entered into an agreement with M/s Punjab Security Service in the year 2010-11. In the year 2011 M/s Jai Durga Security Service again provided manpower till 31.3.2012 and thereafter M/s R.R. Security Services has been doing so. The aforesaid contractors were solely responsible for employment, wages and other statutory payments to the workmen under different Acts/Laws.

13. It is denied that these eight workmen are working on perennial basis and performing similar duties as other regular/permanent employees/workers. The respondent thus prays that the claim be dismissed being devoid of any merits.

14. While filing rejoinder, the petitioners controverted the averments in the reply filed by respondent and further reiterated those in the statement of claim.

15. I notice that on 10.7.2017, the following issues came to be framed by my Learned Predecessor:

1. Whether the demands raised by the petitioners *vide* demand notice dated 26.3.2014 to be fulfilled by the respondent to change the service conditions of S/Shri Pumesh Mehta, Om Prakash, Dinesh Kumar, Ganesh Kumar, Jagmohan, Sunita Devi, Asha Devi, Himmat Kaur from alleged roll of the contractor to regular roll of the college as confirmed employee of the college on completion of 5 years of service as per clause-7 of settlement dated 9.2.2012 arrived at in between respondent college and workers union under section 18(1) of the Industrial Disputes Act, 1947 is legal and justified as alleged? ..OPP.
2. If Issue No.1 is proved in affirmative, to what relief of service benefits the aforesaid workers are entitled? ..OPP.
3. Whether the claim petition is not maintainable as alleged? ..OPR.
4. Relief

16. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 : Partly yes

Issue No. 2 : Per operative part

Issue No. 3 : No

Relief : Reference is answered partly in favour of the per operative part of award

REASONS FOR FINDINGS

Issue No. 1:

17. The reference sent to this Court pertains to the demands raised by the union for bringing the workers referred in the demand notice from the rolls of the contractor to the rolls of the respondent college. The aforesaid demand hinges upon clause-VII of a settlement dated 9.2.2012, entered interse the respondent management and the employees union. The said settlement has been placed on record as Ex. PW-1/C. It would be apposite to reproduce the clause 7 of the settlement interse the parties, which reads thus:

“The contractual employees, those are working in perennial/permanent nature of work are also entitled for becoming employees of the college after rendering five years contractual service in good standing as per clause of the settlement of dated 5.4.2004.”

18. The aforesaid clause- VII is stated to have been picked up from an earlier settlement between the workers union and the management on 5.4.2004, placed on record as Mark PX.

19. To buttress the claim so made, the petitioner union has pleaded that the workers mentioned in the reference came to be appointed during the year 2004 and 2013 directly by the respondent college. They were however shown to have been employed through name lending contractors just to evade liabilities under the Labour Law and to defeat the rights of the aforesaid workers. They have been performing work of perennial nature and that too directly under the management of the college. The contracts allegedly entered with the contractors were a camouflage and a complete sham.

20. To substantiate the aforesaid contention, the General Secretary of the union Shri Pawan Kumar Khatri has appeared as PW-1. He has reiterated the case set-up by the petitioners in his affidavit Ex. PW-1/A. The witness has deposed that the workers mentioned in the reference are working under the control of the college. He admits that appointment letter and identity card had been issued to him. The witness has further admitted that there are two categories of workers *i.e.* regular workers and contractual workers. He however admits that the settlements Ex. PW-1/C and Mark PX had been entered between the workers union and the management.

21. The workers seeking benefits under clause-VII of the settlement Ex. PW- 1/C have also been examined, being Pumesh Mehta PW-2, Om Prakash PW-3, Sumita Devi PW- 4, Dinesh Kumar PW-5, Ganesh Dutt PW-6, Asha Kumar PW-7 and Himmat Kaur as PW-8.

22. As per PW-2 Pumesh Kumar he was appointed in the year 2004 and the respondent had issued an appointment letter to him. He has placed on record various appointment letters Ex. PW-2/B to Ex. PW-2/N. The respondent has failed to abide by the settlement dated 9.2.2012. The witness has admitted that these appointment letters have been issued to him for specific period and on contract basis. He has denied that he was engaged through various contractors by the respondent from the year 2004 till May, 2011. Per this witness, the respondent had not issued any identity card to him. His posting and transfer orders are being issued by the respondent. He has denied that the other workers namely Om Prakash, Dinesh Kumar, Ganesh Dutt, Sunita Devi, Asha Devi, Himat Kaur and Jagmohan are the employees of the contractors.

23. The other workers while appearing as PW-3 to PW-8 have also deposed that they have been working with the respondent for almost 12 to 14 years and they have been doing work of perennial nature since then. On 9.2.2012, the respondent management had entered into a settlement to taken them on the rolls of the respondent making them permanent, instead of the contractual appointments offered to them. The affidavits of all the witnesses are on the same lines. Om Prakash PW-3 has placed his appointment letter Ex. PW-3/B. He has denied that he is working under the

control and supervision of the contractor. Likewise Sunita Devi (PW-4) has also placed her appointment letter *vide* Ex. PW-4/C. PW-5 to PW-8 have not placed their appointment letters on record, however, their stand also the same as the other petitioners/witnesses. All however have deposed that their salaries are remitted to their Bank Accounts. All of them have in unison denied that they were working under the control and supervision of the contractor.

24. The respondent on the other hand has examined three witnesses. RW-1 Kishan Chand has brought the summoned record from the office of the Provident Fund Commissioner. He has placed on record the details of the EPF deposits. As per him the names of the workers are reflected at serial No. 23 to 28 and the employer's code HP/SML/0007612000 has been issued to employer Rab Rakha Security Services. He has placed on record the EPF statement of all the workers from the year 2012-13 to 2017-18 *vide* Ex. RW-1/B. The witness however has feigned ignorance as to whether the petitioners were working with DAV Dental College Tatul, District Solan prior to the year 2012.

25. One of the contractors namely Sant Ram who happens to be the Prop. of Rab Rakha Security Services has been examined as RW-2. Per this witness he had deployed eleven workers with the respondent in the year 2012 namely Ganesh, Dinesh, Om Prakash, Sunita, Asha, Himat Kaur and Jagmohan. He had entered into an agreement on 1.4.2014 Mark RX and agreement dated 1.8.2014 Mark RX-1. He has also placed on record the details of the salary account of the workers *vide* Ex. RW-2/C and the salary account of the workers from April 2007 as Ex. RW-2/D. Per him the EPF contribution of the aforesaid workers is being deposited by him. The aforesaid workers were under his control and supervision. He has also placed on record the attendance register of the said workers *vide* Ex. RW-2/E. He has also placed on record the extract of the payment register for the month of October 2012 *vide* Ex. RW-2/F. One of the worker namely Jagmohan is stated to have left the job. He has denied that he has no licence under the Contract Labour Act to deploy sweepers, conductors and helper/mali. He has however feigned ignorance that the said workers were working with the respondent even prior to the year 2012. He has denied that the salaries of the workers are remitted to their bank Accounts by the college. He has denied that these workers were under the control and supervision of the college.

26. The representative of the college Shri Inder Kumar Thakur has appeared as RW-3. He has placed on record an agreement executed between D.R. Tiger Security Agency and the respondent for the year 2004 *vide* Ex. RW-3/C, an agreement with one Vikram Security Agency for the year 2007 *vide* Ex. RW-3/D, an agreement with M/s Jai Durga Security Services dated 1.3.2008 Ex. RW-3/G, agreement dated 1.4.2009 with some agency *vide* Ex. RW-3/H. He has also placed on record an agreement dated 27.3.2010 with one M/s Punjab Security Services Ex. RW-3/J, another agreement dated 30.3.2011 with Jai Durga Security Services Ex. RW-3/K and agreement with M/s R.R. Security Services Ex. RW-3/L to Ex. RW-3/Q. The witness has also placed on record the bills raised by one Vikas Security Agency *vide* Ex. RW-3/E and Ex. RW-3/F.

27. The said witness however has admitted that no licence has been produced in the Court, issued under the Contract Act nor have the respondent taken any permission under the said Act. He has denied that the duties were assigned to the workers by the principal. Though, he admits that annexure P-E has been issued by the principal of the college. He has also admitted that Mark PX-1 and Mark PX-2 had also been issued by the principal. He has admitted that there is no office of the contractor in the campus. He has denied that all the agreements are false and fabricated and that initially the workmen were employed by the respondent and thereafter their services were transferred to the contractor. He has denied that the respondent was resorting to unfair labour practices.

28. This is the entire evidence led by the parties in furtherance to their respective claims. The conjoint reading of the evidence detailed hereinabove goes to show that initially PW-2 Pumesh Mehta, PW-3 Om Prakash and PW-4 Sunita Devi had been issued appointment letters for a period of 89 days. The appointment letters of the aforesaid workers are on record *vide* Ex. PW-2/B to Ex. PW-2/N, PW-3/B, PW-3/C and Ex. PW-4/C. The other witnesses have not placed their appointment letters on record but have categorically deposed that they were appointed in 2004, 2005 and 2006. There is no denial on this score.

29. Though, respondent has placed on record certain agreements entered between some security agencies right from the year 2005-06. Shri Inder Kumar Thakur has placed on record agreements Ex. RW-3/C to Ex. RW-3/K with D.R. Tiger security agency, Vikas Security Agency and Jai Durga Security Services. After that, since 2012 one M/s R.R. Security Services is stated to have been providing manpower including the petitioners till the year 2015 and in this behalf the respondents have examined the contractor Shri Sant Ram Sharma as RW-2. He has placed on record the extract of the attendance register Ex. RW-2/F but those start from the year 2012 itself. The contractor has feigned ignorance as to whether these workers were working with the respondent college even prior to the year 2012. After 2012, he has undoubtedly placed on record documentary evidence to show the wage register and the salary register had been prepared by him and in fact EPF was also deposited through him. It is also corroborated by Kishan Chand while appearing as RW-1, the representative of the PF Commissioner. RW-1/A placed on record by the said witness also categorically shows that these workmen have joined the Provident Fund in the year 2012 itself. RW-1 also does not know whether the petitioners had been working with the respondent college prior to the year 2012.

30. The pleadings and the evidence on record clearly shows that the workmen named in the reference (except Jagmohan who is stated to have left the job) were working with the respondent from almost 2004-06. Though, RW-3 has placed on record certain agreements purported to have been signed with some security agencies *i.e.* D.R. Tiger Security Agency, Vikas Security Agency and Jai Durga Security Services but none has been examined from these agencies to show that the aforesaid workers were working with them. Admittedly, three of the workmen came to be engaged on contract basis (for 89 days) in the inception, they have placed their appointment letters on record. Though, the other workmen have not placed their appointment letters but they have deposed that they were initially engaged on contract and they continued serving the respondent on perennial basis regularly. The respondent though claim that they have been working through the contractors but as per RW-2, he engaged these workers for the first time in the year 2012. He has feigned ignorance that these workers were earlier working with the respondent. Inder Kumar Thakur RW-3 while appearing as the witness for the respondent has categorically deposed in his affidavit Ex. RW-3/B that the college never appointed any of these workers, however, the appointment letters issued by the respondent themselves demolish the statement of RW-3. Since, these workers have been working from 2004-06 and the respondent has only been able to prove their coming on the rolls of contractor in the year 2012, other agreements undoubtedly are shrouded in mystery. None has been examined to say that these workers were working with the so called contractors even during 2004-06 and till 2012.

31. The other thing which casts a shadow of doubt is as to how the condition of service of the petitioners came to be changed after their initial appointments. It is also not certain when they were brought on to the rolls of the contractor, between 2004 and 2012. Initially they had come to be appointed on contract basis and how their services came on the rolls of the contractor. It is not the case of the respondent that while effecting this change *i.e.* from contractual service to the contractor any settlement had taken place between employer and the employee or any notice of change as envisaged under section 9-A had been given to them. The respondent college has appointed them initially on contract basis, any change in the condition of service more particularly employing them

through a contractor necessitates a notice as per section 9-A of the Act. Even if the so called agreements entered by the respondent with various agencies *vide* Ex. RW-3/C to Ex. RW-3/K are seen, it cannot be said with any certainty that the aforesaid workers were engaged through these contractors. There is one list of employees show alongwith Ex. RW-3/E but the said list has also been made on a plain piece of paper whereas all other communications are in the letter head of the agency. Over and apart there is nothing on record to remotely suggest that these workers were working through any of these agencies. For reasons best known to the respondent, they have not examined anyone from these agencies to prove that all these workers had been working with the said contractors and for which period. The contracts prior to 2012 thus seemingly cannot be taken at their face value. They could be a camouflage to deprive the petitioners of their rightful dues.

32. Faced with the aforesaid preposition a glance at Ex. PW-1/C, which happens to be the settlement arrived between the workers union and the management, it indeed was imperative on the respondent to have at least made the workers the employees of the college after having rendered five years of contractual service as was mandated under clause 7 of the said settlement. The appointment of the workers mentioned in the reference was contractual in nature. With the passage of time they were to be brought on the rolls of the college but were strangely, on the contrary brought on the rolls of the name lending contractors. After 2012 they were in fact brought on the rolls of a contractor to the utter surprise of workers. From the date of their appointments till about 2012, they continued working with the respondent management but were shown to have been on the rolls of the various contractors. The respondent has failed to prove that from the inception the aforesaid workers were working under the control of these so called contractors. Had they been working as such, apparently clause-7 of settlement Ex. PW-1/C could not come to the rescue of the workers. The contracts between 2008 and 2012 having been held to be in the realm of doubt and uncertainly can be termed as a camouflage or a sham. It has to be inferred so, more so keeping in view the evidence discussed above.

33. For all the reasons discussed above it is more than apparent that it is not a case relating to a abolition of contract system but only seeking a declaration that they are the workmen of the principal employer. Since, the contracts between 2004-06 to 2012, have been held to be doubtful, it can well be presumed that the said contracts were sham and not genuine, atleast *vis-a-vis* the workers referred to in the reference. In this behalf support can be drawn from the judgment of the Hon'ble Supreme Court titles as **Gujrat Electricity Board Vs. Hind Mazdoor Sabha and others, 1995 LLR 552.**

34. Since, it is an admitted fact that the aforesaid workers have been working with the respondent from the inception of their appointments on 89 days contract. Even assuming that they continued working with the respondent, in spite of there being a frequent change of contractors, it can well be presumed, rather clearly suggestive that the respondent management accept as a matter of fact that the workmen/workers were permanent employees of the respondent college. There is overwhelming evidence on record that the supervision and control throughout has been that of the respondent college. In the present case even the existence of the contractors till 2012 is otherwise shrouded in doubt and do not seem to be genuine. As far back as **1991, the Hon'ble Supreme Court in Indian petro Corp oration Ltd. and another Vs. Shramik Sena and others (1991-II-LLJ 232)**, had gone on to hold that workers working in a canteen run by the contractor was not independent of the management and the contractor was engaged only for the purpose of record and thus had hold that the workers to be the employees of the management.

35. The learned counsel for the respondent has however placed reliance upon a judgment passed by our own Hon'ble High Court in case titled as **Manoj Kumar Vs. M/s Sintex Industries Pvt. Ltd. [2016 (II) Shim.L.C]**. I am afraid the ratio of the aforesaid judgment does not come to the rescue of the respondent, for the simple reason as the Hon'ble High Court had laid down the

ratio after having held on merits that the employee has even failed to place on record his appointment letter to show that he was an employee of the management, but, in the present case the workers have placed on record their appointment letters having been appointed on contract basis for 89 days, as has been detailed hereinabove. Even otherwise the respondent management has failed to prove that prior to 2012 the management had been engaged through contractors. RW-2 the sole contractor examined has only deposed that he engaged them *w.e.f.* 2012. He does not even know that prior to 2012 the said workers had been working with the respondent management. It thus speaks volumes about veracity of the purported agreements allegedly placed on record between 2005 and 2012 by the respondent college.

36. For all the reasons stated hereinabove and keeping in view clause-7 of the settlement dated 9.2.2012, Ex. PW-1/C, arrived interse the workers and the management it is more than clear that the petitioners had been initially engaged as contractual employees and resultantly should have been taken on the rolls of the college after having rendered five years of contractual service with them. The issue is thus decided accordingly.

Issue No.2:

37. As a sequel to the findings recorded in respect of issues no.1 above, it is held that the workers aforesaid except Jagmohan (who is stated to have left the job) are entitled to be brought on the rolls of the management as per clause 7 of the settlement dated 9.2.2012. All the aforesaid workers who had completed five years of service on the date of settlement dated 9.2.2012 shall be brought on the rolls of the respondent management after the year 2012, on completion of five year service. The issue is decided accordingly.

Issue No.3:

38. Nothing has been urged nor anything has been brought to my notice as to how the petition is not maintainable. Since the workers have been held to have been appointed initially on contract basis directly by the respondent/college and not by the contractors, the objection *vis-a-vis* maintainability raised by the respondent does not survive. The issue thus is decided against the respondent.

RELIEF:

For the foregoing reasons discussed hereinabove *supra*, the reference is partly allowed. The workers Pumesh Mehta, Om Parkash, Dinesh Kumar, Ganesh Kumar, Sunita Devi, Asha Devi and Himmat Kaur except Jagmohan (who is stated to have left the job) are held to be the employees of the respondent college and they are entitled to be brought on the rolls of the management as per clause 7 of the settlement dated 9.2.2012. All the aforesaid workers who had completed five years of service on the date of settlement dated 9.2.2012 shall be brought on the rolls of the respondent management after the year 2012, though on completion of five years service. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 23rd Day of September, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF SHRI CHIRAG BHANU SINGH, PRESIDING JUDGE, H.P.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference No. 91 of 2016

Instituted on 3-10-2016

Decided on 30-9-2019

Sheela Devi w/o Shri Ramesh Kumar, R/o Kaleen (sunny side) ward No.13, Solan Tehsil &
Distt. Solan, H.P. ..Petitioner.

VERSUS

1. The Director, Department of Panchayati Raj Himachal Pradesh, Shimla-9.
2. District Panchyati Raj Officer, Department of Panchayati Raj, Saproon Solan, H.P.
..Respondents.

Reference under section 10 of the Industrial Disputes Act

For petitioner : Shri J.S. Parmar, Advocate.
For respondents : Ms. Reena Chauhan, Dy. DA.

AWARD

The following reference was received for adjudication from the appropriate government:—

“Whether demand of Smt. Sheela Devi w/o Shri Rakesh Kumar, r/o Kaleen (Sunny Side) Ward No. 13, Solan, Distt. Solan, H.P. submitted before the (i) The Director, Panchayati Raj Department, Himachal Pradesh, Shimla-9 and (ii) The District Panchayat Officer, Solan Saproon, Distt. Solan, H.P., vide demand notice dated 16.06.2014 (Copy-enclosed), for regularization of her services, as per policy of Govt. of Himachal Pradesh is legal and justified? If yes, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. The petitioner while filing the statement of claim has reiterated the facts narrated in the demand notice dated 11.6.2014. She avers that she is working in the office of the District Panchayat Officer, Solan (DPO) as safaikaramchari since 23.11.1982. She was on daily wages and had rendered service uninterruptedly since then, having completed ten years continuously and that too with a minimum of 240 days in each calendar year. She was entitled to be appointed on regular basis as per the Policy of the State.

3. It is also averred by the petitioner that she had been appointed as a daily wage worker as per the order dated 17.8.2004 after having completed ten years service as on 31.12.2003. Per the petitioner after the year 2011 one Mr. Negi, District Panchayat Officer (DPO) had become inimical to her and was hell-bent to terminate her services. She received a notice on 19.3.2012. The said DPO had illegally terminated her services, but, her services were restored by the respondent no.1. Despite specific orders of respondent No.1, the District Panchayat Officer (DPO) had not complied with the order dated 28.1.2013. The act of the District Panchayat Officer (DPO) was revengeful and

he destroyed the service carrier of petitioner intentionally. She has spent her whole life serving the department and as such is entitled to regular appointment, having completed eight years of service as was the stipulation in the regularization policy of the State. The petitioner thus prays that she may be appointed as regular class-IV employee and she be granted consequential benefits accordingly.

4. While contesting the claim the respondents have *inter-alia* raised preliminary objections that the claim is not maintainable as the petitioner has not completed 240 days in each calendar year and the petition is also barred by the act, conduct and acquiescence of the petitioner as she remained willful absent from her duties.

5. On merits, it is the contention of the respondents that the petitioner was appointed as part time sweeper on hourly basis by the District Panchayat Officer (DPO) in the year 1982. Since 1998, she had been working on part time basis and her working hours were increased from one hour to four hours. The services of the petitioner were converted to daily wages *w.e.f.* 17.8.2004. It is however denied that she has completed 240 days in each calendar year. Per the respondents the petitioner has completed 240 days only during the year 2005, 2006 and 2007 and as such she could not be regularized.

6. It is further the contention of the respondent that once she was declared as a daily wagger, she started remaining absent from duty and due to her absence the work in the office suffered badly. The petitioner become habitual and a willful absentee from duty. She was directed verbally as well as in writing by the then District Panchayat Officer (DPO) to attend the office regularly and to seek prior approval of the competent authority before availing leave, but to no avail. Eventually, the services of the petitioner were terminated by the District Panchayat Officer, (DPO) Solan on 17.10.2011. The Director Panchayati Raj though had set aside the termination of the petitioner and allowed the petitioner to join her duties.

7. After joining her services the petitioner again failed to discharge her duties properly. Again a complaint was made to the Director by the District Panchayat Officer, (DPO) and he had been authorized by the Director to take appropriate action against the petitioner at his own level. Again after completing all codal formalities the then District Panchayat Officer, (DPO) had terminated the services of the petitioner on 28.6.2012. The petitioner again preferred an appeal which came to be allowed on 2.1.2013 and the petitioner was again allowed to re-join as a sweeper in the office of the District Panchayat Officer, (DPO), Solan.

8. In accordance with the order dated 2.1.2013, the District Panchayat Officer (DPO), Solan had issued an order on 28.1.2013 withdrawing the termination order and directing the petitioner to join her duties. Per the respondents, the petitioner never complied with the directions, till her termination by the Director.

9. It is thus prayed that the claim be dismissed being devoid of any merits.

10. While filing rejoinder, the petitioner controverted the averments in the reply filed by respondents and further reiterated those in the statement of claim.

11. I notice that on 8.6.2017, the following issues came to be framed by my Learned Predecessor:

1. Whether the petitioner is entitled for regularization of her services as alleged?

..OPP.

2. If Issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? ..*OPR*.
3. Whether the petition is not maintainable, as alleged? ..*OPR*.
4. Relief

12. Having considered the pleadings, evidence and other attendant material placed on record, my findings on the issues framed are thus:—

Issue No. 1 : Yes

Issue No. 2 : As per operative part of the award

Issue No. 3 : No

Relief : Reference is answered partly in favour of the petitioner and against the respondent per operative part of award.

REASONS FOR FINDINGS

Issues No. 1 & 2:

13. Both these issues being correlated and intermingled are being taken up together for decision.

14. The present reference pertains to a demand notice raised by the petitioner in respect of her regularization alone. In short, it was the case of the petitioner that she had been working as a Safaikaramchhari in the office of the District Panchayat Officer (DPO), Solan since 23.11.1982. The petitioner has completed 10 years in continuous service with the minimum of 240 days in each calendar year and as such completed the minimum requirements as per the policy of the State Government to be brought on work charge and thereafter eligible for appointment on regular basis. The respondents as per order dated 17.8.2004 had also appointed her as a daily waged worker on completion of ten years of service on 31.12.2003. She having spent her whole life with the department is entitled for the regularization after having completed eight years as per the regularization policy of the State.

15. The demand was raised *vide* a notice dated 11.6.2014.

16. It however transpires from the record that in the interregnum, on 28.8.2014 the services of the petitioner were dispensed with by the Director Panchayati Raj and the same was conveyed to the petitioner by the respondent No.2, the District Panchayat Officer (DPO) on 9th September, 2014.

17. The case has a chequered history, but, the fact remains that oblivious of the demand notice which was indeed pending since 11.6.2014, the respondents terminated the services of the petitioner in gross violation of the provisions of sections 9-A and 33 of the Industrial Disputes Act, 1947 (hereinafter to be referred as the Act). No permission under section 33-2(b) was sought by the respondents before terminating the services of the petitioner which indeed is fatal, at least for the respondents.

18. Though, the petitioner has claimed that she had been appointed as a daily wager from the very inception *i.e.* 23.11.1982, but, it transpires from record that she was initially appointed as a part time sweeper on one hour basis which was increased to four hours per day *w.e.f.* the year 1998 and eventually the petitioner was appointed as a daily wager only *w.e.f.* 17.8.2004. It is not only the pleaded case of the respondents, but, is also fortified by the deposition of PW-1 Surender Kumar, Clerk in the office of the District Panchayat Officer (DPO), Solan and the deposition of RW-3 Shri Mohar Singh Negi former District Panchayat Officer (DPO), Solan and document Ex. RW-4/A.

19. What thus comes to the fore is that the petitioner indeed was appointed but as a part time worker in 1982. She continued working as such till the year 2004 when she came to be engaged on daily wages basis. It is also apparent from Ex. RW-4/A on record, whereby she was appointed as a daily wager on 24.8.2004.

20. It is after the year 2004 that the trouble starts brewing. Per the respondents thereafter the petitioner started remaining absent and did not even do her work properly and was cautioned on a number of occasions. The respondents have placed letters Ex. RW-4/B to Ex. RW-4/H to highlight the misdemeanor of the petitioner.

21. The services of the petitioner were dispensed with by the respondent No. 2 *w.e.f.* 18.10.2011 *vide* Ex. RW-3/G. The said termination was set aside by the Director and the petitioner was allowed to rejoin her duties. As per the respondents even after re-joining, the petitioner did not improve her working, neither did she obey nor discharge her duties in a proper manner. However, the respondent No.2 *i.e.* District Panchayat Officer (DPO), Solan had been asked to take necessary action as per the Rules in case the petitioner does not improve herself *vide* a letter dated 16.12.2011.

22. A fresh round of written communications to the petitioner were followed, specifically in relation to her unauthorized absence and callousness towards work, in the shape of Ex. RW-13/J to Ex. RW-3/P and eventually on 28.6.2012, the respondent No. 2 *vide* Ex. RW-3/S again terminated the services of the petitioner.

23. The said termination again came to be set aside by the Director *i.e.* the respondent no.1 *vide* an order dated 2.1.2013, conveyed to the petitioner by the respondent No.1 on 28.1.2013 *vide* Ex. RW-3/T. The petitioner was reengaged though the period of absence was ordered not to be reckoned for the purposes of regularization.

24. It is however the case of the respondents that thereafter, despite communications the petitioner never rejoined and she was eventually terminated on 28.8.2014, conveyed on 9.9.2014 to the petitioner through respondent No.2.

25. Apart from the fact that no permission had been sought under section 33- 2(b) of the Act to terminate the services of the petitioner, strangely there is no documentary evidence available on record to remotely suggest that after 2.1.2013 any steps had been taken to either call the petitioner for rejoining or any action was initiated against her for not rejoining services as per the order dated 2.1.2013. Before issuing Ex. RW-3/S *i.e.* the termination order dated 28.6.2012, thirty four notices were purportedly sent to the petitioner but unfortunately not a single notice has been sent to recall her for joining and that too after an order by a competent authority *i.e.* the Director, who happens to be the respondent No.1 in the present case. Almost all these thirty four notices have been exhibited, but not one has been placed on record to show that some endeavour was made to recall the petitioner or even an enquiry worth the name was initiated for her willful absence after 2.1.2013. Even otherwise the respondents could not have ordered the termination of the petitioner without the express permission of the competent authority as per section 9-A and 33 of the Act. Admittedly, it was not done.

26. Now, advertng to the main issue *i.e.* regarding regularization of the services of the petitioner. Though, the plea set up by the respondent is that the petitioner had not completed 240 days in each calendar year and as such she was not regularized. In this behalf the respondents have placed on record the purported mandays of the petitioner *vide* Ex. RW-4/Q and documents issued by the respondent No. 2 *vide* Ex. RW-3/A to suggest that the petitioner had not completed 240 days in the 2009, 2010 and 2011. Admittedly, the petitioner was working on part time basis since the year 1982 and had been brought on daily wages *w.e.f.* the year 2004. In the year 2004, the petitioner is shown to have completed 130 days, but, it pertains from the month August till December alone. She is shown to have completed 339 days in 2005, 326 days in 2006, 346 days in 2007, 208 days in 2008, 211 days in 2009, 101 days in 2010 and 213 days in 2011.

27. As per the respondents themselves the services of the petitioner were terminated for the first time on 18.10.2011. However, the mandays on record (Ex. RW-4/Q) reflects that the petitioner was working till almost June 2012 and thereafter she again came to be terminated *w.e.f.* 28.6.2012. Though, the respondents department has been consistently harping that the petitioner used to remain absent from duty. Admittedly, no enquiry for absence was initiated against her, except notices issued to her from time to time. The said fact is also admitted by one of the former District Panchayat Officer (DPO), Solan Shri Sunpur Singh, who has appeared as RW-4. The terminations of the petitioner which were also effected on the same grounds twice had been set aside by the respondent No.1 and as such the plea raised by the respondents cannot be taken at its face value. The mandays of the petitioner or the attendance record was also sought for during the course of arguments but nothing could be produced by the respondents.

28. No doubt the respondents have placed on record certain notices issued after March 2009 *vide* Ex. RW-4/K to Ex. RW-4/P and communications Ex. RW-3/D to Ex. RW-3/G which eventually culminated in her termination on 18.10.2011 and the same pertained to her absence or to her working only for a few hours a day. The fact however remains that her termination *w.e.f.* 18.10.2011 *vide* Ex. RW-3/G was set aside by the respondent no.1 and by implication the so called absence reflected in the mandays was implicitly condoned. Nothing to the contrary has been proved on record. In the year 2013 while setting aside the termination it has been specifically directed that her period of absence would not be considered towards regularization. It was ordered while set aside order dated 28.6.2012 Ex. RW-3/S, but, again prior to 28.6.2012 by implication the period of absence has been condoned. The petitioner thus would have completed eight years of continuous service in the year 2012 and was indeed entitled to regularization as per the policy of the State. The communication Ex. RW-3/A sent by the respondent No.2 to the Director in September 2012 was thus not bonafide. Admittedly, the petitioner has also worked continuously with the respondents since the year 1982.

29. Though, this Court cannot venture to order reinstatement of the petitioner, though, the order of termination dated 28.8.2014, conveyed to the petitioner on 9.9.2014 is against the provisions of sections 9-A and 33 of the Act, but since it is not a question which has been referred to this Court but the same can be taken into consideration while appreciating the conduct of the respondents. To say the least, it was a blatant misuse of power by the respondent and that too without resorting to the statutory provisions of the Act, the petitioner already having raised a demand on 11.6.2014 and the respondents very much aware of the same. However, the action of the respondents in terminating the services *vide* order dated 28.8.2014 is nonest in the eyes of law and is held accordingly. The petitioner indeed was entitled to regularization after completion of eight years that is *w.e.f.* 31.3.2012 and in this behalf a reference has already been made. The respondents thus are bound to regularize her services on completion of eight years continuous service as a daily wagger as on 31.3.2012. It is ordered accordingly. Though, the termination of the petitioner has been held to be nonest, since there is no reference on the point no direction is being issued for reinstatement and back-wages. None the less the petitioner would be entitled to all consequential

benefits, post regularization after 2012 including pensioner benefits, if any. The same will have to be calculated till the year 2016 as the date of birth of the petitioner has been reflected in the records as 1.1.1956, by the respondents themselves. Both the issues are decided accordingly.

Issue No. 3:

30. Nothing has been urged nor anything has been brought to my notice as to how the petition is not maintainable. Therefore, keeping in view the reasons recorded in respect of issues No. 1 & 2, it cannot be said that the claim petition is not maintainable. The issue is decided in favour of the petitioner and against the respondents.

RELIEF:

For the foregoing reasons discussed hereinabove *supra*, the reference is partly allowed. The respondents are directed to regularize the petitioner *w.e.f.* 31.3.2012 and to release all the consequential benefits arising thereto post regularization after 2012 including pensionary benefits, if any. The same will have to be calculated till the year 2016 *i.e.* till her superannuation. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today this 30th day of September, 2019.

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

Ref. 31 of 2018

Prakash Paliwal

V/s

M/s Dainik Bhaskar, Chandigarh & Anr.

23.09.2019

Present: None for petitioner.
Sh. Virender Chauhan, Ld. Csl. for respondent.

The matter is listed for the evidence of petitioner today, despite four opportunities no evidence is present on behalf of the petitioner. In fact none is present for the petitioner today. On the last occasion also none was present. It is thus apparent that the petitioner is not interested to prosecute the lis any further. The dispute seems to have ceased to exist. The reference is thus dismissed as having not been pressed. Let, a copy of this order be sent to appropriate government for publication in the official gazette. File, after completion be consigned to records.

Announced
23.09.2019

Sd/-
(CHIRAG BHANU SINGH),
Presiding Judge Labour Court, Shimla.

EXCISE AND TAXATION DEPARTMENT**NOTIFICATION***Shimla-2, the 22nd February, 2020*

No. EXN-F(10)-7/2019.—In exercise of the powers conferred by Section 16 of the Himachal Pradesh (Legacy Cases Resolution) Scheme, 2019, the Government of Himachal Pradesh hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the H.P. (Legacy Cases Resolution) Scheme Rules, 2020 (hereinafter refer to as the “Rules”).

(2) They shall come into force with immediate effect.

2. Definitions.—In these rules, unless the context otherwise requires,—

- (a) "Scheme" means the Himachal Pradesh (Legacy Cases Resolution) Scheme, 2019, as published in the Rajpatra of Himachal Pradesh on 22-1-2020 *vide* Notification No. EXN-F (10)-7/2019 dated 21-01-2020.
- (b) "section" means the section of the Himachal Pradesh (Legacy Cases Resolution) Scheme, 2019;
- (c) "Form" means the Form annexed to these rules;
- (d) Words and expressions used in these rules but not defined in these rules and defined in the Scheme shall have the meanings respectively assigned to them in the Scheme.

3. Filing and Acknowledgment of Declaration under section 4.—(1) The declaration under section 4 of the scheme shall be made in Form LCRS-01 by the declarant by 30-04-2020.

(2) A separate declaration shall be filed for each case.

Explanation.—For the purpose of this rule, a “case” means –

- (a) any additional demand pending for recovery pertaining to a financial year in respect of which assessment has been made under the subsumed enactment; or
- (b) any pending assessment or any demand on account of tax, penalty and interest that may accrue as a result of disposal of such pending assessment under a subsumed enactment.

(3) Every declaration under the scheme shall be accompanied by the Settlement Fee and all required documents as per rule 4.

(4) On receipt of the declaration, an acknowledgement bearing a reference number shall be issued in Form LCRS-2 to the declarant by the member(s) of the Designated Committee as per sub section (2) of Section 4.

(5) Notwithstanding anything contained in these rules, an acknowledgement shall not be issued and declaration shall be rejected if the declaration is not accompanied by proof of payment of settlement fee, if any.

4. Constitution of Designated Committee.—(1) The Designated Committee under section 2(i) of the Scheme in each Revenue Circle may consist of following members:—

- (i) The Deputy Commissioner of State Taxes and Excise, (District Incharge) Chairman.
- (ii) The Asstt. Commissioner of State Taxes and Excise, (Incharge of the Circle) Member.
- (iii) The State Taxes and Excise Officer/Asstt. State Taxes and Excise Officer, Member.

5. Payment of Settlement Fee.—(1) The declarant shall calculate Settlement Fee as per Section 8 of the scheme as indicated in Annexure 'A', 'B', and 'C' appended with Form LCRS-I.

(2) The payment of Settlement Fee calculated under section 8 of the Scheme shall be deposited in the government treasury in the relevant head of account of the subsumed enactment and produce the proof of payment of such fee alongwith the declaration in Form LCRS-I. No payment on account of Settlement Fee shall be accepted at the O/o Deputy Commissioner of State Taxes and Excise/ Assistant Commissioner of State Taxes and Excise/Incharge of the District.

6. Verification of declaration by Designated Committee.—(1) The Designated Committee shall verify the correctness of the declaration made by the declarant under section 9 of the scheme. The following documents shall be verified by the Designated Committee to ascertain the correctness and genuineness of the claim filed by the declarant in Form LCRS-01:—

- (i) Balance sheet in case of the Company,
- (ii) Trading and Profit and Loss Account in case of traders,
- (iii) Abstract of all returns filed or not filed for the financial year and copies of such returns which are filed,
- (iv) Proof of payment of Settlement Fee in original,
- (v) Copies of assessment orders where settlement of any additional demand is pending for recovery for relevant years,
- (vi) Copy of last assessment order.

Any other document/information as Designated Committee may require to its satisfaction. The Designated Committee shall issue Discharge Certificate in Form LCRS-03 and reject the same in Form LCRS-03(A). In case where the declaration has been rejected the decalarant may request the Designated Committee in writing within 10 days of the rejection of the declaration requesting the Designated Committee to give him the opportunity of being heard.

7. Maximum 3% of cases wherein discharge certificates have been issued in Form LCRS-03 will be taken up for scrutiny within 60 days of issuance of order as per the provision of Section 12. The Commissioner of State Taxes and Excise may fix the criteria for selection of such cases.

8. Appeal.—(1) The Commissioner may designate one or more officers not below the rank of Joint Commissioner of State Taxes and Excise, as Appellate Authority for the purpose of the Scheme.

(2) Any aggrieved declarant may file an appeal before the Appellate Authority in Form LCRS-04 within 30 days of the communication of any adverse order passed against the declarant.

(3) The Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from preferring an appeal within the aforesaid period of 30 days, it may allow such appeal to be preferred within further period not exceeding 30 days.

(4) The Appellate Authority shall decide the appeal within 90 days from the date of filing of appeal under sub-section (2) of Section 13 of the Scheme.

(5) A certified copy of the order pronounced by the Appellate Authority under sub-section (4) shall be sent to the appellant and the designated committee after such pronouncement.

Explanation.—For the provision of this Section, the appeal is filed only, when the acknowledgement, indicating the appeal number, is issued.

FORM LCRS-01

DECLARATION

(See Rule 3)

1. Name of the Subsumed Enactment: [Central Sales Tax Act, 1956/ Value Added Tax Act, 2005/ H.P. Tax on Entry of Goods into Local Area Act, 2010/H.P. Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979/ H.P. Entertainment Duty Act, 1968/ H.P. Entertainments Tax (Cinematograph Shows) Act, 1968/H.P. Goods and Sales Tax Act, 1968]: _____
2. Registration number of the Declarant: _____
3. Financial Year: _____
4. Name of the Declarant: _____
5. Office Address: _____
6. Name of the Zone (South Zone/Central Zone/North Zone): _____
7. Name of Revenue District: _____
8. Name of the Revenue Circle: _____
9. Whether Assessed (Yes/No) : _____
10. If assessed then date of assessment: _____
11. Gross turnover during the financial year : _____
12. Taxable Turnover during the financial year: _____
13. Whether appeal against the order is pending in any appellate forum (Yes/No): _____
14. If the appeal is pending, whether the same has been withdrawn or not (Yes/No): _____

Note.— If the appeal has been withdrawn, the copy of the Appeal Order shall be enclosed with the declaration.

15. (a) Whether all returns alongwith due payment of tax have been filed timely (Yes/No) _____
- (b) Whether any claim has been made against statutory Form (C/D/F/H etc.) (Yes/No): _____
- (c) Whether all statutory Forms have been filed (Yes/No.): _____

Note.— The declarant who has answered yes for point No. (a), (b) and (c), shall not be required to pay any settlement fee.

16. If return have not been filed in the prescribed period or due tax has not been deposited in time, details shall be furnished as per **Annexure-'A'**.
17. If returns have not been filed or due tax has not been deposited, details shall furnished as per **Annexure-'B'**.
18. If the required statutory forms with respect to a particular financial year are not available and the due tax as per returns has been paid, details shall be furnished as per **Annexure-'C'**.
19. Amount of due tax/Additional Demand: _____ (in words) _____ (in figures).
20. Amount of tax paid at the time of Assessment, if any: _____ (in words) _____ (in figures).
21. Amount adjusted against Settlement Fee under section 8 of the Scheme, if any: _____ (in words) _____ (in figures).
22. Amount paid as Settlement Fee under the Scheme: _____ (in words) _____ (in figures).
23. (i) Date of payment of Settlement Fee(dd/mm/yyyy):-----.
- (ii) The copy of receipt of payment of Settlement Fee shall be enclosed with the Form.

Declaration:

I, _____ (give full name, son/ daughter of Sh. _____ (give name of the farther/ husband), r/o _____ (give complete address) hereby declare in the capacity of _____ (proprietor/partner/MD/ duly authorised signatory) of M/s _____ (give full name of the business entity/dealer) have been its business address at _____ (give complete address of the dealer) the contents contained hereinabove are true and correct and that nothing has been concealed therein. The H.P. (Legacy Cases Resolution) Scheme 2019 has been opted after fully understanding the terms and conditions.

Date:

Place:

(Signature of the Declarant)

Name of the applicant _____
(also affix Seal/Stamp of the dealer).

Annexure-'A'

Details to be furnished with respect to each late filed return or late deposited tax due on the below prescribed format:

Return No.1:

- (i) Periodicity of late filed Return (Annually/Quarterly/Monthly): _____
- (ii) Total number of returns filed late: _____

- (iii) Due tax w.r.t. such late filed return _____ (in figures), _____ (in words),
- (iv) Due tax deposited by the declarant w.r.t. such late filed return _____ (in figures), _____ (in words).
- (v) Date of deposition of tax amount w.r.t. such late filed return (dd/mm/yyyy) _____.
- (vi) Settlement Fee calculated @10% as per provision of Section 6 (ii) of tax deposited w.r.t. such late filed return, _____ (in figures), _____ (in words) and date of deposition of settlement fee _____ (DD/MM/YYYY).

Date:

(Signature of the Declarant)

Place:

Name: _____

Annexure-'B'

Details to be furnished with respect to each non filed return on the below prescribed format:

Return No.1:

- (i) Periodicity of late non-filed Return(Annually/ Quarterly/ Monthly):

- (ii) Total number of returns not filed: _____
- (iii) Taxable turnover involved in such non-filed return _____ (in figures), _____ (in words).
- (iv) Due tax w.r.t. such non-filed return _____ (in figures), _____ (in words),
- (v) Settlement Fee calculated @110% (as per section 6 (iii) of due tax applicable under the subsumed enactment on the taxable turnover w.r.t. such non filed return, _____ (in figures), _____ (in words) and date of deposition of assessment fee _____ (DD/MM/YYYY).

Date:

(Signature of the Declarant)

Place:

Name: _____

Annexure-'C'

Details to be furnished on the below prescribed format if the required statutory forms with respect to a particular financial year are not available and the due tax as per returns has been paid:

1. Total Number of Statutory Forms not filed _____.

2. Name of the each non filed Statutory Forms and amount of transactions involved in such Form:
- (i) _____ (Name (e.g. C/F/H/D etc.) _____) (Amount in figures)
- (ii) _____ (Name (e.g. C/F/H/D etc.) _____) (Amount in figures)
- (iii) _____ (Name (e.g. C/F/H/D etc.) _____) (Amount in figures)
3. Total value of transactions involved in all such Statutory Forms which have not been produced _____ (in figures), _____ (in words).
4. Amount of tax paid against the turnover of transactions involved in such statutory forms as if the forms were available, which have not been produced, if any _____ (in figures), _____ (in words).
5. Calculated amount of settlement fee:
- * (i) 100% of tax paid against the transactions involved in such non produced statutory forms _____; or
- ** (ii) 1% of the turnover of transactions involved in such non-produced statutory forms _____.
- whichever is applicable as per Section 6(2)*
6. Total amount of settlement fee payable _____ (in figures), _____ (in words).

Date:

(Signature of the Declarant)

Place:

Name: _____

* Those cases where concessional rate of tax against statutory form was applicable.

** Those cases where no tax was involved against statutory forms.

FORM LCRS-02
ACKNOWLEDGEMENT
(See Rule 3)

Received from Sh. _____ of M/s _____ Registration No. _____ a declaration in Form LCRS-01 under rule _____ for the financial year _____ for resolution of legacy issues under the subsumed enactment, namely _____ alongwith all required relevant documents.

Signature _____

Name of the issuing authority _____

Circle.....District.....

Zone.....

(SEAL)

Date.....

Place.....

FORM LCRS-03

(See rule 6)

Discharge certificate No. : _____

Discharge certificate is issued to Sh. _____ s/o Sh. _____
 r/o _____ who is present in the capacity of _____ on behalf of M/s _____
 Registration No. _____ address _____ after verifying all the documents
 which are mandatory under the H.P. (Legacy Cases Resolution) Scheme, 2020 for the financial
 year _____ after the recovery of the Settlement Fee.

Signature _____
 Name of the issuing Authority _____
 Circle.....District.....
 Zone.....
 (SEAL)
 Date.....
 Place.....

FORM LCRS-03 (A)

(See Rule 6)

Discharge certificate No. : _____

This is to inform Sh. _____ s/o Sh. _____ r/o _____
 who is present in the capacity of _____ on behalf of M/s _____ Registration No. _____
 address _____ that the information provided by you in Form LCRS-01
 is not complete in material nor accompanied by documents as prescribed. Therefore, the declaration
 filed by you is hereby rejected and documents submitted are returned to you in original.

Signature _____
 Name of the issuing Authority _____
 Circle.....District.....
 Zone.....
 (SEAL)
 Date.....
 Place.....

Note.— The Designated Committee shall give specific reasons/ grounds for rejection of
 Discharge Certificate.

FORM LCRS-04

**Form of memorandum of appeal to the Appellate Authorities u/s 13 of H.P. (LCR)
 Scheme, 2019**

Space for court fee stamp

Before the

Appellate Authority	
M/s	Appellant(s)
<i>Versus</i>	
	Respondent

1.	Assessment year	
2.	District in which assessment made	
3.	Authority passing the order in dispute	
4.	Date of passing order appealed against	
5.	Address to which notice may be sent to the appellant(s).	
6.	Address to which notice may be sent to the respondent.	
7.	Relief claimed in appeal	
	a Settlement Fee determined by the Designated Committee.	
8.	Whether the Settlement Fee created by the Designated Committee has been deposited into the government treasury or not.	TR. No. Date
9.	Grounds of appeal	

Signature of the Appellant(s)
or his/their duly authorized agent;

Verification:

I/We _____ appellant(s) named in the above appeal do hereby declare that what is stated above is true to the best of my/our knowledge and belief.

Verified.....this.....the day of 2020.

Signature of Appellant(s)
or his /their duly authorized agent;

Note:—

- (i) The appeal shall be written on the standard water marked judicial paper and to be filled in triplicate specifying all the particulars given in this form.
- (ii) It shall bear court-fee stamps worth Rs. containing a clear statement of facts and grounds of appeal briefly but clearly set-out and shall also state precisely the relief prayed for.
- (iii) It shall be accompanied by :-
 - (a) The order in original against which it is made duly authenticated copy thereof unless the omission to do so or to produce such order or copy is explained at the time of presentation of memorandum of appeal to the satisfaction of the appellate authority; and

- (b) Proof of payment of Settlement Fee unless the inability to make payment of such amounts payments proved and unless a written prayer to that affect has been submitted alongwith the memorandum of appeal.
- (iv) It shall be signed and verified by the appellant(s) or by an agent duly authorised by him/them in this behalf.
- * Please indicate the designation of the authority, before whom the appeal is to be filled.
- ** Please indicate the place of the Appellate Authority, where his office court is situated.

By order,

SANJAY KUNDU,
Principal Secretary (E&T).

ब अदालत जनाब सहायक समाहर्ता प्रथम श्रेणी, सदर, जिला बिलासपुर (हि0 प्र0)

श्री राम लाल पुत्र कान्शी राम, निवासी गांव चिल्ला, तहसील सदर, जिला बिलासपुर (हि0 प्र0)

बनाम

बुद्धि राम पुत्र खजाना राम, निवासी गांव चिल्ला, तहसील सदर, जिला बिलासपुर (हि0 प्र0) आदि बाकि प्रत्यार्थीगण की सूचि साथ संलग्न हैं।

Decretal order for civil appeal in the High Court of Himachal Pradesh, Shimla-171001

Regular Second Appeal No. 73 of 2013

1. Ranjeet Singh, 2. Sher Singh, 3. Ram Lal s/o Sh. Kanshi Ram, all residents of Village Chilla, Pargna Rattanpur, Tehsil Sadar, District Bilaspur, H.P.
4. Shiv Dei d/o Sh. Kanshi ram w/o Sh. Shankar Singh, r/o Village Patta, P.O. Kallar, District Bilaspur, H.P.
5. Sohan Singh, 6. Shyam Singh, 7. Mast Ram s/o Sh. Polo Ram all residents of Village Chilla, Pargna Rattanpur, Tehsil Sadar, District Bilaspur, H.P. . . *Appellants.*

Versus

1. Budhi Ram s/o Sh. Khajana Ram, r/o Village Triambari, P.O. Deoth, Tehsil Sadar, District Bilaspur, H.P.
2. Ramesh Chand, 3. Sat Pal s/o Sh. Chhanga Ram s/o Sh. Durga. Both residents of Village Triambari, P.O. Deoth, Tehsil Sadar, District Bilaspur, H.P.
4. Devi Ram (since deceased) through Lrs :—
4. (a) Asha Devi widow,
(b) Rattan Lal
(c) Kishori Lal s/o Late Sh. Devi Ram. All residents of Village Triambari, P.O. Deoth, Tehsil Sadar, District Bilaspur, H.P.

4. (d) Sheela Devi d/o Late Sh. Devi Ram wd/o Late Sh. Daulat Ram, r/o Village Bouh, P. O. Deoth, Tehsil Sadar, District Bilaspur, H.P.
4. (e) Meena Kumar d/o Late Sh. Devi Ram wd/o Late Sh. Chuni lal, r/o Village Malaon, P.O. Kohu, Tehsil Nalagarh, District Solan, H.P.

Regular Second Appeal No. 73 of 2013.

4. (f) Rajo w/o Late Sh. Padam s/o Sh. Devi Ram, r/o Village Triambari, P.O. Deoth, Tehsil Sadar, District Bilaspur, H.P.
4. (g) Krishna Devi d/o Late Sh. Padam w/o Sh. Sanju, r/o Village Panali, P.O. Bandla, Tehsil & District Bilaspur, H.P.
4. (h) Santa Devi d/o late Sh. Padam w/o Sh. Babu Ram, r/o Village Bathoh, Suin-Surahar, Tehsil & District Bilaspur, H.P.
4. (i) Om Prakash s/o Sh. Padam, r/o Village Triambari, P.O. Deoth, Tehsil & District Bilaspur, H.P.
4. (J) Guddi Devi d/o Sh. Padam w/o Sh. Vinod Kumar, r/o Village Nera Kund, P.O. Tanbaul, Tehsil & District Bilaspur, H.P.
5. Mahanti Devi *alias* Banti d/o Sh. Chhanga Ram s/o Sh. Lachhman w/o Sh. Shyam Lal, r/o Village Boh, P.O. Deoth, Tehsil Sadar, District Bilaspur, H.P.
6. Charno Devi widow, 7. Subhash Chand, 8. Dara Singh *alias* Sawarn Singh, 9. Jasbir Singh *alias* Jasbir Kaur daughter of Sh. Rattan Chand, all residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
10. Bakhtawar Singh, 11. Ujjagar Singh, 12. Jagtar Singh 13. Baldev Singh s/o Sh. Raghu all residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
14. Amarjeet Kaur w/o Late Sh. Asha Ram s/o Sh. Raghu Ram.

Regular Second Appeal No. 73 of 2013.

15. Raj Pal s/o Sh. Asha Ram s/o Sh. Raghu Ram, Both residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
16. Rattani Devi d/o Sh. Raghu w/o Sh. Piare Lal r/o Village Majra, Tehsil Nalagarh, District Solan, H.P.
17. Bhago Devi d/o Sh. Raghu w/o Sh. Baba Singh, r/o Village Bhageri, Tehsil Nalagarh, District Solan, H.P.
18. Premi Devi d/o Sh. Raghu Ram w/o Sh. Rakha Ram, r/o Village Bhageri, Tehsil Nalagarh, District Solan, H.P.
19. Rakho Devi d/o Sh. Raghu Ram w/o Sh. Waryam Singh, r/o Village Katidru Majra, Tehsil Nalagarh, District Solan, H.P.
20. Bhagat Ram *alias* Magi s/o Sh. Bhangi Ram s/o Bhandari Ram
21. Ram Ashra s/o Sh. Prabhu Ram s/o Sh. Ganesha, 22. Sarwan s/o Sh. Prabhu Ram s/o Sh. Ganesha, 23. Pritam s/o Sh. Malu s/o Sh. Saunu. All residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
24. Dilbag Singh s/o Sh. Babu Ram, 25. Smt. Sita w/o Late Sh. Babu Ram Both residents of Village Kaunwala, Tehsil Nalagarh, District Solan, H.P.
26. Raj Kumari d/o Sh. Babu Ram w/o Sh. Kamal Singh, r/o Village and P.O. Mandhala, Tehsil Baddi, District Solan, H.P.
27. Pushpinder Kaur d/o Sh. babu Ram w/o Sh. Harbhajan Singh, r/o Village Massewa, P.O. Rajpura, Tehsil Nalagarh, District Solan, H.P.

Regular Second Appeal No. 73 of 2013.

28. Kauslya Devi widow.
 29. Harish Kumar, 30. Sanjeev Kumar, 31. Ashok Kumar, 32. Sandhya Devi daughter, 33. Babli daughter of Sh. Jeet Singh.
 34. Arjan Singh s/o Sh. Ram Ji. All residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P. . . *Respondents/Defendants.*
35. Kamlesh daughter, 36. Sheela Devi daughter of Sh. Asha Ram, Both residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
 37. Baldev Singh, 38. Chaman Singh, 39. Gulzaro daughter, 40. Rachana Devi d/o Sh. Pargo.
 41. Prito Devi daughter, 42. Ram Kaur daughter, 43. Julmo Devi daughter of Sh. Malu. All residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
 44. Harbansh Singh son, 45. Gian Singh son, 46 Gulzaro daughter, 47. Shakuntla Devi daughter, 48. Bhago Devi daughter, 49. Giano Devi daughter Smt. Nikko All residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
 50. Gurbaksh daughter, 51. Smt. Raghuvanshi d/o Smt. Manso Devi

Regular Second Appeal No. 73 of 2013.

52. Bhajno d/o Smt. Geeto Devi, 53. Balbinder Singh s.o Smt. Sikandro d/o Geeto. All residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P.
 54. Sarwani d/o Sh. Prabhu Ram w/o Premu, 55. Anto *alias* Lachhmi d/o Prabhu Ram, w/o Amar Nath.
 Both respondents No. 54 and 55 through General Power of Attorney Sh. Sharwan Singh s/o Sh. Prabhu, residents of Village Kaunwala, P.O. Baruna, Tehsil Nalagarh, District Solan, H.P. . . *Respondents.*

Regular Second Appeal filed under section 100 of the Code of civil Procedure against the judgement and decree dated 30-11-2012 passed by Sh.Sushil Kukreja, learned District Judge Bilaspur, H. P. in Civil Appeal No. 30 of 2010 *vide* which the appeal filed by the plaintiffs against the judgment and decree dated 31-07-2010 passed by Sh. R. K. Chaudhary, learned Civil Judge (Senior Division), Bilaspur, H.P. in Civil No. 63-1 of 1997 and Counter Claim No. 90/1 of 2010/1998 was dismissed.

Claim.—Suit for declaration and injunction.
 Memorandum of Suit.

Kanshi Ram & Ors.

. . *Plaintiffs.*

Vs.

Budhi Ram & Ors.

. . *Defendants.*

The legal representatives of Plaintiffs No. 1 and 2 above named appealed to the High Court Of Himachal Pradesh, Shimla against the judgment and decree dated 30-11-2012 passed by the Sushil Kukreja, learned District Judge, Bilaspur, H.P. in Civil Appeal No. 30 of 2010.

DECREE

This appeal came up for hearing on 18th day of March, 2014, before aSingle Bench of Hon'ble Mr. Justice Sanjay Karol Judge High Court of Himachal Pradesh, Shimla, H.P. in the

presence of Mr. Rajiv Jiwan, Advocate for the appellants and M/s. Neeraj Gupta, Ajit Sharma and Ms. Kiran Thakur, Advocate for the respondents, it is ordered that for the reason given in the judgment dated 18-03-2014 impugned judgment and decree dated 31-07-2010 passed by Civil Judge (Senior Division), Bilaspur, H.P. in Civil Suit No. 63-1 of 1997, titled as Kanshi Ram and other *V.* Budhi Ram and other as affirmed by the District Judge, Bilaspur, H.P. *vide* judgment and decree dated 30-11-2012, passed in Civil Appeal No. 30 of 2010, titled as Kanshi ram and other *V.* Budhi Ram and other, is modified and the appeal is disposed in terms of the compromise. Both the Compromise deeds (copies enclosed) shall form part of the decree.

Given under my hand the seal of the Court, this 18th day of March, 2014.

Sd/-
Section Officer (Judicial)

Sd/-
Deputy Registrar (Judicial).

विषय.— तबदीली मलकियत का इन्तकाल नम्बर 553 तस्दीक करने बारे।

सर्वसाधारण को सूचित किया जाता है कि इन्तकाल नं० 518 खाता खतौनी नं० 14/15 खसरा नं० 109-110, रकबा तादादी 24-7, बीघा, मौजा चिल्ला, तहसील सदर, जिला बिलासपुर (हि० प्र०) जिसमें अधोहस्ताक्षरी द्वारा इन्तकाल करने की तारीख 09-02-2019 दी गई थी। जिसे पार्टियां हाजिर न होने की सूरत में खारिज किया जा चुका है। अतः अब इन्तकाल नं० 553 जिसमें माननीय उच्च न्यायालय द्वारा केस नं० 73 ओफ 2013 फैसला दिनांक 18-03-2014 में किया गया है अब इन्तकाल नं० 553 दर्ज कागजात माल किया गया है। किसी भी प्रार्थी या प्रत्यार्थीगण को उपरोक्त इन्तकाल तस्दीक करने बारे कोई एतराज हो वह दिनांक 27-02-2020 को प्रातः 11.00 बजे तहसील न्यायालय में आकर अपना एतराज पेश कर सकता है। गैर हाजिरी की सूरत में एकतरफा कार्यवाही करते हुए इन्तकाल तस्दीक कर दिया जाएगा। अतः प्रत्यार्थीगणों की सूची इस पत्र के साथ संलग्न है।

आज दिनांक 07-01-2020 को मेरे हस्ताक्षर व मोहर से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
सदर, जिला बिलासपुर (हि० प्र०)।

ब अदालत डॉ० गणेश ठाकुर, सहायक समाहर्ता प्रथम वर्ग, तहसील सदर,
जिला मण्डी (हि० प्र०)

मिसल नं० : 2020

तारीख मजरूआ : 18-01-2020

तारीख पेशी : 07-03-2020

सोनिया पुत्री श्री नर बहादुर, निवासी गांव व डाकघर पण्डोह, तहसील सदर, जिला मण्डी (हि० प्र०)

बनाम

आम जनता

आवेदन पत्र जेर धारा 13(3) जन्म पंजीकरण अधिनियम, 1969.

सोनिया पुत्री श्री नर बहादुर, निवासी गांव व डाकघर पण्डोह, तहसील सदर, जिला मण्डी (हि० प्र०) ने इस अदालत में प्रार्थना-पत्र दायर किया है कि उसका जन्म दिनांक 17-07-1998 को उनके घर गांव व डाकघर पण्डोह, तहसील सदर, जिला मण्डी (हि० प्र०) में हुआ था परन्तु अज्ञानतावश वे उक्त जन्म को ग्राम

पंचायत पण्डोह के जन्म एवं मृत्यु रजिस्टर में दर्ज न करवा सके हैं। इसे दर्ज करने के आदेश सचिव, ग्राम पंचायत पण्डोह को दिये जावें।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई एतराज हो तो वह दिनांक 07-03-2020 को असालतन या वकालतन अदालत में प्रातः 11.00 बजे हाजिर होकर अपना उजर/एतराज पेश कर सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त होने पर एकपक्षीय कार्यवाही की जाएगी।

आज दिनांक 20-01-2020 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

डॉ० गणेश ठाकुर,
सहायक समाहर्ता प्रथम वर्ग,
तहसील सदर, जिला मण्डी (हि० प्र०)।

ब अदालत डॉ० गणेश ठाकुर, सहायक समाहर्ता प्रथम वर्ग, सदर मण्डी,
जिला मण्डी (हि० प्र०)

मिसल नं० : 06/2020

तारीख मजरूआ : 16-04-2020

तारीख पेशी : 17-03-2020

श्री गोपाल सिंह पुत्र परस राम, निवासी मकान नं० 32/3, जोल रोड़ मण्डी, तहसील सदर, जिला मण्डी (हि० प्र०)।

बनाम

आम जनता

आवेदन पत्र जेर धारा 40-41 पंजीकरण अधिनियम, बाबत वसीयत नामा पंजीकरण करने बारे।

श्री गोपाल सिंह पुत्र परस राम, निवासी मकान नं० 32/3, जोल रोड़ मण्डी, तहसील सदर, जिला मण्डी (हि० प्र०) ने इस अदालत में प्रार्थना-पत्र पेश किया है कि स्व० हिमा देवी पत्नी तारा चन्द, निवासी बालकरूपी बाजार, मण्डी शहर, जिला मण्डी ने एक घरेलु वसीयत नामा श्री हंस राज ठाकुर अधिवक्ता HIM 76/97 से लेखनी किया है को जेर धारा 40-41 पंजीकरण अधिनियम के अन्तर्गत वसीयत नामा को पंजीकृत किया जाये।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 17-03-2020 को असालतन या वकालतन अदालत में प्रातः 11.00 बजे हाजिर होकर अपना उजर/एतराज पेश कर सकता है निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त होने पर एकपक्षीय कार्यवाही की जाएगी।

आज दिनांक 16-01-2020 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

डॉ० गणेश ठाकुर,
सहायक समाहर्ता प्रथम वर्ग,
तहसील सदर, जिला मण्डी (हि० प्र०)।

**ब अदालत डॉ० गणेश ठाकुर, कार्यकारी दण्डाधिकारी, तहसील सदर,
जिला मण्डी (हि० प्र०)**

मिसल नं० : /2020

तारीख मजरूआ : 17-01-2020

तारीख पेशी : 17-03-2020

लक्ष्मण दास पुत्र श्री ओम कार प्रशाद, निवासी मकान नं० 82, हाऊसिंग कॉलौनी भ्यूली, डाकघर पुरानी मण्डी, तहसील सदर, जिला मण्डी, हिमाचल प्रदेश।

बनाम

आम जनता

आवेदन पत्र जेर धारा 13(3) जन्म पंजीकरण अधिनियम, 1969.

लक्ष्मण दास पुत्र श्री ओम कार प्रशाद, निवासी मकान नं० 82, हाऊसिंग कॉलौनी भ्यूली, डाकघर पुरानी मण्डी, तहसील सदर, जिला मण्डी, हिमाचल प्रदेश ने इस अदालत में प्रार्थना-पत्र मय शपथ-पत्र सहित मुकद्दमा दायर किया है कि उसके बेटे आयुष शर्मा का नाम व जन्म दिनांक 29-08-2009 है जो नगर परिषद् मण्डी के रिकार्ड में दर्ज न है जबकि आधार कार्ड, स्कूल रिकार्ड व राशन कार्ड में दर्ज है। अतः इसे दर्ज करने के आदेश नगर परिषद् मण्डी को दिये जावें।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई एतराज हो तो वह दिनांक 07-03-2020 को असालतन या वकालतन अदालत में प्रातः 11.00 बजे हाजिर होकर अपना एतराज लिखित या मौखिक पेश कर सकता है निर्धारित अवधि के पश्चात् किसी आपत्ति पर विचार नहीं किया जायेगा।

आज दिनांक 17-01-2020 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

डॉ० गणेश ठाकुर,
कार्यकारी दण्डाधिकारी,
तहसील सदर, जिला मण्डी (हि० प्र०)।

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Balh,
District Mandi (H. P.)**

In the matter of :—

1. Sh. Gagan Kumar s/o Sh. Narayan Dass, r/o Village Chattru, P.O. Kummi, Tehsil Balh, District Mandi (H. P.).

2. Smt. Nisha Kumari d/o Sh. Puran Chand, r/o Lunapani, P.O. Bhangruto, Tehsil Balh, District Mandi (H. P.) at present wife of Sh. Gagan Kumar s/o Sh. Narayan Dass, r/o Village Chattru, P.O. Kummi, Tehsil Balh, District Mandi (H. P.).

Versus

General Public

Subject.—Application for the registration of Marriage under section 15 of Special Marriage Act, 1954.

Sh. Gagan Kumar s/o Sh. Narayan Dass, r/o Village Chattru, P.O. Kummi, Tehsil Balh, District Mandi (H. P.) and Smt. Nisha Kumari d/o Sh. Puran Chand, r/o Lunapani, P.O. Bhangruto, Tehsil Balh, District Mandi (H. P.) at present wife of Sh. Gagan Kumar s/o Sh. Narayan Dass, r/o Village Chattru, P.O. Kummi, Tehsil Balh, District Mandi (H. P.) under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 17-09-2019 according to Hindu rites and customs at Koyala Mata Mandir Chattru, Tehsil Balh, District Mandi (H. P.) and they are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 04-03-2020. After that no objection will be entertained and marriage will be registered.

Issued today on 5th February, 2020 under my hand and seal of the Court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,
Balh, District Mandi (H.P.).*

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Balh,
District Mandi (H. P.)**

In the matter of :—

1. Sh. Jagdish Chand s/o Sh. Nand Lal, r/o Village Tarwai, P.O. Kaloud, Tehsil Balh, District Mandi (H. P.).

2. Smt. Pritma d/o Sh. Chaman Lal, c/o Govt. Middle School Brow, Village Brow, P.O. Poshana (19/57), Tehsil Nirmand, District Kullu (Rampur Bushehar) (H. P.) at present wife of Sh. Jagdish Chand s/o Sh. Nand Lal, r/o Village Tarwai, P.O. Kaloud, Tehsil Balh, District Mandi (H. P.).

Versus

General Public

Subject.—Application for the registration of Marriage under section 15 of Special Marriage Act, 1954.

Sh. Jagdish Chand s/o Sh. Nand Lal, r/o Village Tarwai, P.O. Kaloud, Tehsil Balh, District Mandi (H. P.) and Smt. Pritma d/o Sh. Chaman Lal, c/o Govt. Middle School Brow, Village Brow, P.O. Poshana (19/57), Tehsil Nirmand, District Kullu (Rampur Bushehar), H. P. at present wife of Sh. Jagdish Chand s/o Sh. Nand Lal, r/o Village Tarwai, P.O. Kaloud, Tehsil Balh, District Mandi (H. P.) under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 22-11-2019 according to Hindu rites and customs at Tarna Mata Temple Mandi (H. P.) and they

are living together as husband and wife since then. Hence, their marriage may be registered under Special Marriage Act, 1954.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 4-03-2020. After that no objection will be entertained and marriage will be registered.

Issued today on 04th February, 2020 under my hand and seal of the Court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,
Balh, District Mandi (H.P.).*

ब अदालत कार्यकारी दण्डाधिकारी, तहसील औट, जिला मण्डी (हि0 प्र0)

उनवान मुकद्दमा : 13(3)

आगामी पेशी : 09-03-2020

श्री केशव राम पुत्र मोती राम, निवासी गांव सोझा, डाकघर पनारसा, तहसील औट, जिला मण्डी (हि0 प्र0) वादी।

बनाम

आम जनता

प्रतिवादी।

आवेदन-पत्र जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969 की धारा 13(3) के अन्तर्गत वादी के स्व0 माता श्रीमती काली देवी की मृत्यु की घटना नाम ग्राम पंचायत किगस के रिकार्ड में दर्ज करने बारे।

श्री केशव राम पुत्र मोती राम, निवासी गांव सोझा, डाकघर पनारसा, तहसील औट, जिला मण्डी (हि0 प्र0) ने दिनांक 10-02-2020 को इस अदालत में आवेदन-पत्र गुजारा है कि उनकी स्व0 माता श्रीमती काली देवी की मृत्यु की घटना अज्ञानतावश ग्राम पंचायत किगस के रिकार्ड में दर्ज नहीं हुई है। प्रार्थी की स्व0 माता श्रीमती काली देवी की मृत्यु दिनांक 27-01-2019 को हुई है। प्रार्थी ने इस अदालत से प्रार्थना की है कि उनकी स्व0 माता का नाम ग्राम पंचायत के रिकार्ड से कटवाने व मृत्यु की घटना दर्ज करवाने बारे सम्बन्धित पंचायत को लिखित आदेश पारित करने की कृपा करें।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त की मृत्यु की घटना पंचायत किगस के रिकार्ड में दर्ज करने बारा कोई उजर/एतराज हो तो वह असालतन या वकालतन तारीख पेशी 09-03-2020 को सुबह 10.00 बजे हाजिर होकर अपना उजर पेश कर सकता है बसूरत गैरहाजिरी एकतरफा कार्यवाही अमल में लाई जाकर उचित आदेश पारित कर दिये जाएंगे।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी,
औट, जिला मण्डी (हि0 प्र0)।

समक्ष श्री प्रवीण कुमार, तहसीलदार एवम् सहायक समाहर्ता प्रथम श्रेणी, लडभडोल, जिला मण्डी (हि0 प्र0)

तारीख पेशी : 06-03-2020

श्री प्रताप सिंह पुत्र श्री भूप सिंह, निवासी गांव भरौण, डाकघर रोपड़ी कलैहडू, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

फरीकदोयम।

प्रार्थना-पत्र जेर धारा 35 ता 37 हि0प्र0 राजस्व अधिनियम, 1954 के अन्तर्गत बाबत नाम दुरुस्ती बारे।

श्री प्रताप सिंह पुत्र श्री भूप सिंह, निवासी गांव भरौण, डाकघर रोपड़ी कलैहडू, तहसील लडभडोल, जिला मण्डी (हि0 प्र0) ने शपथ-पत्र सहित आवेदन किया है कि प्रार्थी का वास्तविक नाम प्रताप सिंह है परन्तु प्रार्थी का नाम राजस्व अभिलेख महाल लाहडी व महाल भरौण में प्रतापा दर्ज हो चुका है जो कि गलत दर्ज कागजात माल है। अब प्रार्थी ने अपने नाम की दुरुस्ती के आदेश चाहे हैं।

अतः इस इश्तहार के माध्यम से सर्वसाधारण को सूचित किया जाता है कि यदि किसी व्यक्ति को उक्त नाम दुरुस्ती को दर्ज करने बारा कोई उजर-एतराज हो तो वह दिनांक 06-03-2020 को असालतन या वकालतन इस न्यायालय में उपस्थित होकर अपना उजर-एतराज पेश करें। अन्यथा गैरहाजिरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी।

यह इश्तहार आज दिनांक 01-02-2020 को मेरे हस्ताक्षर व मोहर सहित अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
लडभडोल, जिला मण्डी (हि0 प्र0)।

ब अदालत श्री प्यारे लाल नेगी, सहायक समाहर्ता द्वितीय श्रेणी, सराहन, उप-तहसील सराहन, जिला शिमला, हि0 प्र0

मुकद्दमा नं0 : 11/2019

तारीख दायर : 12-09-2019

श्रीमती शिवदासी पुत्री स्व0 श्री मदू राम, वासी गांव रांवी, डाकघर सराहन, तहसील सराहन, जिला शिमला, हि0 प्र0 वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—ग्राम पंचायत सराहन में नाम दुरुस्ती करने बारे प्रार्थना-पत्र।

श्रीमती शिवदासी पुत्री स्व0 श्री मदू राम, वासी गांव रांवी, डाकघर सराहन, उप-तहसील सराहन, जिला शिमला, हि0 प्र0 ने इस कार्यालय में आवेदन-पत्र व ब्यान हल्फी दिया है कि आवेदिका का नाम आधार कार्ड, राजस्व कागजात, बैंक, राशन कार्ड आदि में शिवदासी दर्ज है जो सही व दुरुस्त है परन्तु ग्राम पंचायत

सराहन के नकल परिवार रजिस्टर में शिवी दर्ज है जो कि गलत है तथा आवेदन किया है कि आवेदिका का नाम ग्राम पंचायत सराहन के नकल परिवार रजिस्टर में शिवदासी जारी करने के आदेश जारी किये जायें।

अतः इस इशतहार द्वारा आम जनता को सूचित किया जाता है कि शिवदासी पुत्री स्व० श्री मद्रू राम का नाम ग्राम पंचायत सराहन के नकल परिवार रजिस्टर में दुरुस्त किया जाना है इस बारे आम जनता को कोई आपत्ति हो तो वह इस इशतहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर इस सम्बन्ध में अपना उजर/एतराज पेश कर सकते हैं। इसके पश्चात् कोई उजर/एतराज मान्य नहीं होगा तथा उपरोक्त शिवदासी का नाम दुरुस्त करने के आदेश पारित कर दिये जाएंगे।

यह इशतहार हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 31-01-2020 को जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील सराहन, जिला शिमला (हि० प्र०)।

समक्ष श्री रमेश चन्द, सहायक समाहर्ता द्वितीय वर्ग कुमारसैन, तहसील कुमारसैन, जिला शिमला,
हि० प्र०

श्री गंगा दास पुत्र स्व० श्री देवी राम, गांव फलाधार, डाकघर कांगल, तहसील कुमारसैन, जिला शिमला,
हि० प्र० प्रार्थी।

बनाम

आम जनता

प्रत्यार्थी।

भू-राजस्व अधिनियम, 1954 की धारा— (37)1 के तहत राजस्व कागजात में नाम दुरुस्ती बारे दरख्वास्त।

श्री गंगा दास पुत्र स्व० श्री देवी राम, गांव फलाधार, डाकघर कांगल, तहसील कुमारसैन, जिला शिमला, हि० प्र० ने अदालत हजा में प्रार्थना-पत्र मय नकल जमाबन्दी वर्ष 2013-14, नकल वोटर आईडी कार्ड, प्रतिलिपि आधार कार्ड, प्रतिलिपि जन्म प्रमाण-पत्र सहित गुजार कर निवेदन किया है कि पटवार वृत्त कांगल के राजस्व रिकार्ड में अराजी खाता/खतौनी नं० 12 मिन/16 मिन बराए राजस्व रिकार्ड महाल भूणा में उसका नाम गंगा राम गलत दर्ज है, जबकि प्रार्थी के मुताबिक उसका नाम प्रस्तुत करवाये गए सबूतों के अनुरूप गंगा दास है। आवेदक ने निवेदन किया है कि पटवार वृत्त कांगल के राजस्व कागजात में उसके नाम को दुरुस्त करने के आदेश पारित किये जावें।

यह मिसल अदालत हजा से छानबीन व रिपोर्ट हेतु गिरदावर हल्का बड़ागांव को भेजी गई। मुताबिक रिपोर्ट क्षेत्रीय कानूनगो आवेदक का नाम पटवार वृत्त कांगल के राजस्व रिकार्ड में गलत दर्ज हुआ है जिसे गंगा राम के स्थान पर गंगा दास दर्ज करने की अनुशंसा व्यक्त की है।

सर्वसाधारण को इस इशतहार के माध्यम से सूचित किया जाता है कि यदि प्रार्थी का नाम राजस्व अभिलेख में गंगा राम के स्थान पर गंगा दास दर्ज कर लिया जावे। इस बारे किसी को कोई उजर व एतराज हो तो मिति 11-03-2020 को 11.00 बजे अथवा इस तिथि से पूर्व किसी कार्य दिवस में असालतन/वकालतन हाजिर आकर अपना एतराज दर्ज करवा सकता है अन्यथा इस तिथि तक कोई भी एतराज पेश न होने की सूरत में प्रार्थी का नाम कागजात माल में दुरुस्त करने के आदेश पारित कर दिए जाएंगे।

यह आदेश आज तारीख 11-02-2020 को मेरे हस्ताक्षर व मोहर सहित जारी हुये।

मोहर।

रमेश चन्द,
सहायक समाहर्ता द्वितीय वर्ग,
तहसील कुमारसैन, जिला शिमला, हि० प्र०।

**ब अदालत श्री प्यारे लाल नेगी, सहायक समाहर्ता द्वितीय श्रेणी, सराहन, उप-तहसील सराहन,
जिला शिमला, हि० प्र०**

मुकद्दमा नं० : 11/2019

तारीख दायर : 12-09-2019

श्रीमती शिवदासी पुत्री स्व० श्री मदू राम, वासी गांव रांवी, डाकघर सराहन, तहसील सराहन, जिला शिमला, हि० प्र० वादी।

बनाम

आम जनता

प्रतिवादी।

विषय.—ग्राम पंचायत सराहन में नाम दुरुस्ती करने बारे प्रार्थना-पत्र।

श्रीमती शिवदासी पुत्री स्व० श्री मदू राम, वासी गांव रांवी, डाकघर सराहन, तहसील सराहन, जिला शिमला, हि० प्र० ने इस कार्यालय में आवेदन-पत्र व ब्यान हल्फी दिया है कि आवेदिका का नाम आधार कार्ड, राजस्व कागजात, बैंक, राशन कार्ड आदि में शिवदासी दर्ज है जो सही व दुरुस्त है परन्तु ग्राम पंचायत सराहन के नकल परिवार रजिस्टर में शिवी दर्ज है जो कि गलत है तथा आवेदन किया है कि आवेदिका का नाम ग्राम पंचायत सराहन के नकल परिवार रजिस्टर में शिवदासी जारी करने के आदेश जारी किये जायें।

अतः इस इश्तहार द्वारा आम जनता को सूचित किया जाता है कि शिवदासी पुत्री स्व० श्री मदू राम का ग्राम पंचायत सराहन के नकल परिवार रजिस्टर में दुरुस्त किया जाना है इस बारे आम जनता को कोई आपत्ति हो तो वह इस इश्तहार के प्रकाशन की तिथि उपरान्त एक माह के भीतर इस सम्बन्ध में अपना उजर/एतराज पेश कर सकते हैं। इसके पश्चात् कोई उजर/एतराज मान्य नहीं होगा तथा उपरोक्त शिवदासी का नाम दुरुस्त करने के आदेश पारित कर दिये जाएंगे।

अतः इश्तहार हमारे हस्ताक्षर व मोहर अदालत से आज दिनांक 31-01-2020 को जारी हुआ।

मोहर।

देवा चन्द नेगी,
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील सराहन, जिला शिमला (हि० प्र०)।

ब अदालत कार्यकारी दण्डाधिकारी, पांवटा साहिब, जिला सिरमौर, हि० प्र०

श्री रंगीलाल पुत्र श्री ध्यान सिंह, निवासी अम्बोया, तहसील पांवटा साहिब, जिला सिरमौर, हि० प्र० वादी।

बनाम

आम जनता

प्रतिवादी।

उनवान मुकद्दमा.—प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री रंगीलाल पुत्र श्री ध्यान सिंह, निवासी अम्बोया, तहसील पांवटा साहिब, जिला सिरमौर, हि० प्र० ने एक प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि आवेदक किन्हीं कारणों से अपनी रंगीलाल की जन्म तिथि 30-06-1959 का इन्द्राज निर्धारित अवधि के अन्दर सम्बन्धित ग्राम पंचायत में दर्ज नहीं करवा पाया है। इस

[illegible]

() श्री/श्रीमती
 () श्री/श्रीमती

मुकद्दमा उपरोक्त में प्रतिवादीगण की तलबी आसान तरीके से न हो पा रही है अतः प्रतिवादीगण उपरोक्त को इस नोटिस/इशतहार द्वारा सूचित किया जाता है कि यह उपरोक्त मुकद्दमें की पैरवी हेतु मिति 29-02-2020 को प्रातः 2.00 बजे असालतन या वकालतन हाजिर अदालत होवें अन्यथा गैरहाजिरी की सूरत में कार्यवाही एकतरफा अमल में लाई जाएगी।

आज दिनांक को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
 सहायक समाहर्ता द्वितीय श्रेणी,
 पांवटा साहिब, जिला सिरमौर, हि0 प्र0।

**In the Court of Shri Gurmit G. Negi, Executive Magistrate (Tehsildar) Solan,
 District Solan, Himachal Pradesh**

In the matter of :

Sh. Shilan Bhasin s/o Sh. Raj Kumar, r/o House No. 56/5, Ward No.8, Block 15, Bhasin Bhawan, Dalda Colony Solan, Tehsil & District Solan (H. P.)
. . Applicant.

Versus

General Public . . Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Sh. Shilan Bhasin s/o Sh. Raj Kumar, r/o House No. 56/5, Ward No.8, Block 15, Bhasin Bhawan, Dalda Colony Solan, Tehsil & District Solan (H. P.) has moved an application before the undersigned under section 13(3) of Birth and Death Registration Act, 1969 alongwith affidavit and other documents for entering of date of birth of his son namely Gritvik Bhasin i.e. 14-12-2018 at home, Dalda Colony Solan, Ward No.8, Tehsil & District Solan (H. P.) but his date of birth could not be entered in the record of Municipal Council Solan.

Therefore, by this proclamation the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth of Gritvik Bhasin Sh. Shilan Bhasin s/o Sh. Raj Kumar, r/o House No. 56/5, Ward No.8, Block 15, Bhasin Bhawan, Dalda Colony Solan, Tehsil & District Solan (H. P.) may submit their objection in writing or appear in person in this court on or before 05-03-2020 at 10.00 A.M. failing which no objection will be entertained after expiry of date.

Given under my hand and seal of the court on this 4th day of February, 2020.

Seal.

GURMIT G. NEGI,
 Executive Magistrate (Tehsildar),
 Solan, District Solan (H. P.).

**In the Court of Shri Gurmit G. Negi, Executive Magistrate (Tehsildar) Solan,
District Solan, Himachal Pradesh**

In the matter of :

Sh. Shyam Singh s/o Sh. Ram Lal, c/o Sh. Ram Swaroop Sharma Niwas, Near S. K. Traders, Bye Pass Road Solan, Tehsil & District Solan (H. P.) . . Applicant.

Versus

General Public . . Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Sh. Shyam Singh s/o Sh. Ram Lal, c/o Sh. Ram Swaroop Sharma Niwas, Near S. K. Traders, Bye Pass Road Solan, Tehsil & District Solan (H. P.) has moved an application before the undersigned under section 13(3) of Birth and Death Registration Act, 1969 alongwith affidavit and other documents for entering of date of birth of his son namely Vinod Kumar i.e. 05-03-1989 at home, Ram Swaroop Sharma Niwas, Near S. K. Traders, Bye Pass Road Solan, Tehsil & District Solan (H. P.) but his date of birth could not be entered in the record of Municipal Council Solan.

Therefore, by this proclamation the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth of Sh. Vinod Kumar s/o Sh. Shyam Singh c/o Sh. Ram Swaroop Sharma Niwas, Near S. K. Traders, Bye Pass Road Solan, Tehsil & District Solan (H. P.) may submit their objection in writing or appear in person in this court on or before 07-03-2020 at 10.00 A.M. failing which no objection will be entertained after expiry of date.

Given under my hand and seal of the court on this 6th day of February, 2020.

Seal.

GURMIT G. NEGI,
Executive Magistrate (Tehsildar),
Solan, District Solan (H. P.).

**Before Sh. Basant Ram Thakur, Executive Magistrate-cum- (Tehsildar), Kasauli,
District Solan, Himachal Pradesh**

Case No.
03/2020

Date of Institution
06-2-2020

Sh. Puran Singh s/o Sh. Ram Swaroop, r/o Ambota, P.O. Ekhu, Tehsil Kasauli, District Solan, Himachal Pradesh . . Applicant.

Versus

General Public . . Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Sh. Puran Singh s/o Sh. Ram Swaroop, r/o Ambota, P.O. Ekhu, Tehsil Kasauli, District Solan, Himachal Pradesh has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that her daughter namely Km. Sunakshi on 10-07-2013 at Ambota, P.O. Ekhu, Tehsil Kasauli, District Solan, H.P. but her date of birth could not be entered in the record of Gram Panchayat Goela, Tehsil Kasauli, District Solan, H.P. by the applicant.

Therefore, by this proclamation, the general public is hereby informed that any person having any objection for the registration of delayed date of birth of Km. Sunakshi may submit their objections in writing in this court on or before 16-03-2020 at 10.00 A.M. failing which no objection will be entertained after expiry of date.

Given under my hand and seal of the court on this 11th day of February, 2020.

Seal.

Sd/-
*Executive Magistrate (Tehsildar),
Kasauli, District Solan (H. P.).*

Office of the Sub-Divisional Magistrate, Arki, District Solan, H. P.

Case No.
03/2020

Date of Institution
06-02-2020

Date of Decision

Sh. Rakesh Kumar Verma s/o Sh. Bali Ram Verma, r/o Village Rathoh, P.O. Kashlog, Tehsil Arki, District Solan, Himachal Pradesh . . *Applicant.*

Versus

General Public

. . *Respondent.*

Regarding delayed registration of Birth event under section 13(3) of the Birth and Death Registration Act, 1969.

Sh. Rakesh Kumar Verma s/o Sh. Bali Ram Verma, r/o Village Rathoh, P.O. Kashlog, Tehsil Arki, District Solan, Himachal Pradesh has filed a case under section 13(3) of Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein he born on 18-08-1975 at Village Rathoh, P.O. Kashlog, Tehsil Arki, District Solan, Himachal Pradesh but his birth has not been entered in the records of Gram Panchayat Kashlog, Tehsil Arki, District Solan, H.P. as per Certificate No. 10 issued by the Registrar, Birth and Death Registration, G.P. Kashlog, Tehsil Arki.

Therefore, by this proclamation, the general public is hereby informed that any person having objection for the registration of delayed date of birth of Sh. Rakesh Kumar Verma s/o Sh.

Bali Ram Verma may submit their objections in writing in this office on or before 16-03-2020 at 10.00 A.M., failing which no objection will be entertained after expiry of date of hearing.

Given under my hand and seal of this office on this 6th day of February, 2020.

Seal.

VIKAS SHUKLA, HAS,
Sub-Divisional Magistrate,
Arki, District Solan, H. P.

Office of the Sub-Divisional Magistrate, Arki, District Solan, H. P.

Case No.	Date of Institution	Date of Decision
03/2020	31-01-2020	Pending for 03-03-2020

Smt. Nirmala w/o Late Sh. Mast Ram, r/o Village Rampur, P.O. Bhumti, Tehsil Arki, District Solan, Himachal Pradesh . .Applicant.

Versus

General Public . .Respondent.

Regarding delayed registration of Death event under section 13(3) of the Birth and Death Registration Act, 1969.

Smt. Nirmala w/o Late Sh. Mast Ram, r/o Village Rampur, P.O. Bhumti, Tehsil Arki, District Solan, Himachal Pradesh has filed a case under section 13(3) of Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that her husband namely Late Sh. Mast Ram s/o Late Sh. Sudama Ram died on 26-05-2015 at Village Rampur, P.O. Bhumti, Tehsil Arki, but his death has not been entered in the records of Gram Panchayat Bhumti, Tehsil Arki, District Solan, Himachal Pradesh as per Certificate No. 10 issued by the Registrar, Birth and Death Registration, G.P. Bhumti, Tehsil Arki.

Therefore, by this proclamation, the general public is hereby informed that any person having objection for the registration of delayed date of death of Late Sh. Mast Ram s/o Late Sh. Sudama Ram may submit their objections in writing in this office on or before 03-03-2020 at 10.00 A.M., failing which no objection will be entertained after expiry of date of hearing.

Given under my hand and seal of this office on this 31th day of January, 2020.

Seal.

VIKAS SHUKLA, HAS,
Sub-Divisional Magistrate,
Arki, District Solan, H. P.

Office of the Sub-Divisional Magistrate, Arki, District Solan, H. P.

Case No.
04/2020

Date of Institution
10-02-2020

Date of Decision
Pending for 17-03-2020

Sh. Mast Ram s/o Sh. Hari Ram, r/o Village Ser Galotiya, P.O. Danoghat, Tehsil Arki,
District Solan, Himachal Pradesh . . *Applicant.*

Versus

General Public

. . *Respondent.*

Regarding delayed registration of Death event under section 13(3) of the Birth and Death Registration Act, 1969.

Sh. Mast Ram s/o Sh. Hari Ram, r/o Village Ser Galotiya, P.O. Danoghat, Tehsil Arki, District Solan, Himachal Pradesh has filed a case under section 13(3) of Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that his mother namely Late Smt. Jamna w/o Sh. Hari Ram died on 15-07-2005 at Village Ser Galotiya, P.O. Danoghat, Tehsil Arki, but her death has not been entered in the records of Gram Panchayat Danoghat, Tehsil Arki, District Solan, Himachal Pradesh as per Certificate No. 10 issued by the Registrar, Birth and Death Registration, G.P. Danoghat, Tehsil Arki.

Therefore, by this proclamation, the general public is hereby informed that any person having objection for the registration of delayed date of death of Late Smt. Jamna w/o Sh. Hari Ram may submit their objections in writing in this office on or before 17-03-2020 at 10.00 A.M., failing which no objection will be entertained after expiry of date of hearing.

Given under my hand and seal of this office on this 10th day of February, 2020.

Seal.

VIKAS SHUKLA, HAS,
*Sub-Divisional Magistrate,
Arki, District Solan, H. P.*